

Chapters 1201 - 1253

# ***TRANSPORTATION ACQUISITION MANUAL (TAM)***

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***Issued by: The Office of Acquisition and Grant Management  
October 15, 1998 Edition***

(This edition includes the consolidation of all Transportation Acquisition Manual TAM NOTES through 98-03)



**U.S. Department of Transportation  
Office of Acquisition and Grant Management**



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

**TAM NOTE 99-01**

## **TRANSPORTATION ACQUISITION MANUAL**

**DATE ISSUED: October 8, 1998**

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### **TRANSPORTATION ACQUISITION MANUAL (TAM NOTE) 99-01 SUMMARY OF ITEMS**

TAM NOTE 99-01 is issued under the authority of the Transportation Acquisition Manual (TAM). This TAM NOTE reissues the entire TAM to include relevant Internet links, wherever external references are made, to encourage use of the Internet as an acquisition information resource. The attached cover page explains the electronic structure of the new TAM, and indicates the relevant Internet addresses. Please retain the current tabs, discard the current TAM, and replace it with the attached.

In addition, certain delegations are restated to describe the functions being delegated.

This TAM NOTE was not circulated for comment as it does not implement changes to the Federal Acquisition Regulation, nor does it implement any new policy or change existing DOT policy.

**Effective Date:** October 15, 1998.

David J. Litman  
Senior Procurement Executive

Attachment

# **TRANSPORTATION ACQUISITION MANUAL**

**1998 EDITION**



## **FOREWORD**

The Transportation Acquisition Manual (TAM) implements and supplements the Federal Acquisition Regulation (FAR) and the Transportation Acquisition Regulation (TAR). It is non-regulatory in nature and provides uniform procedures for the internal operation of acquiring supplies and services within the Department of Transportation. The TAM is written to conform to the format, arrangement and numbering system of the FAR and TAR and is divided by chapters and subchapters. The TAM is not a stand alone document and must be read in conformance with the FAR and TAR.

The October 15, 1998, edition of the TAM includes relevant Internet links wherever external references are made. Many appendices, samples, suggested formats, and optional guidance were removed from the TAM and placed into the Electronic Acquisition Reference Library (EARL), which is maintained by the Office of Acquisition and Grant Management (OAGM) ([www.dot.gov/ost/m60/earl](http://www.dot.gov/ost/m60/earl)).

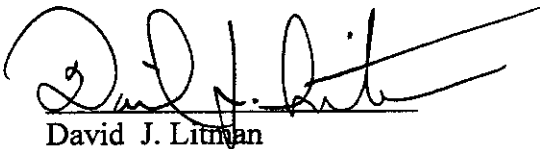
The changes are apparent in the electronic version of the TAM (<http://www.dot.gov/ost/m60/earl/tam.htm>) and in the attached reissued paper version. In the electronic version, external references, such as Executive Orders or OMB Circulars, are linked directly to the referenced document. DOT forms, sample documents, and additional reference material are accessible via similar links. If these documents were previously included in the TAM, they are now incorporated by reference using Internet links. Appendices and other TAM site references are linked to minimize scrolling.

In the paper version, the links are underlined and followed by the phrase "(see EARL)" to indicate that further information is available under EARL. EARL can also be used independently of the TAM as a resource library.

OAGM intends to focus its information dissemination efforts to the Internet, and will begin to decrease the number of printed copies of the TAM after this issue. Distribution of hard copies will be limited to one per procurement office as of October 1, 1999.

We suggest you bookmark the electronic version of the TAM in your web browser. Those offices with homepages or automated contract writing systems may want to establish links to the TAM in these systems.

Please provide any suggestions or comments to the OAGM @ [acq.dot@ost.dot.gov](mailto:acq.dot@ost.dot.gov).

A handwritten signature in black ink, appearing to read "David J. Litman", with a long horizontal stroke extending to the right.

David J. Litman  
Senior Procurement Executive



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## **SUBCHAPTER 1201.1--PURPOSE, AUTHORITY, ISSUANCE**

### **1201.101 Purpose.**

The Department of Transportation Acquisition Manual (TAM) is issued by the Senior Procurement Executive (SPE), Office of Acquisition and Grant Management (OAGM). It establishes for the Department of Transportation (DOT) uniform internal operating acquisition procedures which implement or supplement the Federal Acquisition Regulation (FAR) and the Transportation Acquisition Regulation (TAR).

### **1201.103 Authority.**

The TAM is issued pursuant to DOT Order 4200.18 series, Establishment of a Transportation Acquisition Manual.

### **1201.104 Applicability.**

All acquisitions within the Department are to follow this manual unless otherwise excluded by the FAR, TAR, or this manual.

### **1201.105 Issuance.**

#### **1201.105-170 Publication of TAM.**

This manual is issued in loose-leaf form and on the Internet. Throughout the TAM, references to documents which supplement the TAM will be indicated with "(see EARL)." EARL is an Internet-based Electronic Acquisition Reference Library maintained by the Office of Acquisition and Grant Management. EARL is located on [www.dot.gov/ost/m60/earl/](http://www.dot.gov/ost/m60/earl/).

#### **1201.105-270 Arrangement of TAM.**

##### *(b) Numbering.*

(1) This manual conforms with the arrangement and numbering system prescribed by (FAR) 48 CFR 1.105. The numbering illustrations at (FAR) 48 CFR 1.105-2(b) are equally applicable to this manual.

(2) TAM coverage is identified by the prefix "12" and followed by the complete TAM cite which may be down to the subparagraph level (e.g., TAM 1201.104-3).

(3) Coverage in the TAM that supplements the FAR will use chapter, subchapter, section and subsection numbers ending in "70" through "89" (e.g., TAM 1201.301-70).

(4) Coverage in the TAM, other than that identified with a "70" or higher number, that implements the FAR or TAR will use the identical number sequence and caption of the FAR or TAR segment being implemented which may be down to the subparagraph level (e.g., TAM 1201.602-3(a)).

(c) *References and citations.* This manual may be referred to as the Transportation Acquisition Manual or the TAM. Cross reference to the FAR, TAR, or TAM in this manual will be cited by "FAR", "TAR", or "TAM" followed by its numbered cite.

### **1201.105-3 Copies.**

(a) Loose-leaf copies of the TAR and TAM are distributed to DOT offices through TASC Distribution Requirements, SVC-121.21. The TAR and TAM are also available on the Internet and through the Government Printing Office. If your OA requirements for the TAR or TAM increases or decreases (due to changes in personnel, etc.), you may order the initial copy and all changes (as of the date of the request) through your OA distribution control point. To receive all future changes, you must increase your TAR/TAM distribution requirements by advising your OA distribution control point of the change in quantity. Your OA distribution control point is required to submit this information to OAGM who will forward this quantity change to SVC 121.21 who is the distribution control point for all DOT directives.

(b) Requests for copies of the TAR and TAM for Departmental use must include the title of the document; quantity requested; the name, agency, routing symbol, and room number of the requestor; and a completed mailing label for those requests outside the Nassif Building.

(c) The TAR and TAM distribution list is maintained by OAGM. OA requests for additions, deletions, or changes (including quantity changes) to this list shall be in writing and forwarded to OAGM, 400 7th Street, S.W., Washington, DC, 20590. Field offices are to coordinate any changes through their appropriate Headquarters office.

**1201.106 OMB Approval Under the Paperwork Reduction Act.** Prior to obligating funds and entering into a contractual agreement for information collection activities, the contracting officer shall obtain a clearance and approval from OMB. The SF-83, Request for OMB Review, shall be used to request OMB's review and approval. Operating administration (OAs) Paperwork Clearance Officers are available to assist in preparing the information collection justification for the SF-83.

(a) *Data collection under proposed contracts.* SF-83s must be forwarded to the Office of the Chief Information Officer (CIO), (S-80), for processing to OMB. Early coordination with Paperwork Clearance Officers and S-81 prior to release of the solicitation should prevent delays caused by the requirement to obtain OMB approval.

(b) *Data collection under TAR Supplements.* An SF-83, along with the calculations used to derive the numbers shown on the SF-83, shall be forwarded to the SPE along with the proposed TAR Supplement coverage (see TAM 1201.304) for coordination with S-81.

## **SUBCHAPTER 1201.2--ADMINISTRATION**

### **1201.202-70 Departmental compliance with the FAR, TAR, and TAM.**

The individuals within the Office of Acquisition and Grant Management (OAGM) having prime responsibility for questions relating to the FAR, TAR, and TAM are found in EARL.

## **SUBCHAPTER 1201.3--AGENCY ACQUISITION REGULATIONS**

### **1201.301 Policy.**

(a)(1) *Delegations of FAR and TAR procurement authority.* The following is applicable with respect to delegations of FAR and TAR procurement authority included in this manual:

(i) *Agency head delegations.* There are certain FAR and TAR functions which are non-delegable and reserved by the Secretary; these are indicated in the applicable chapters of this manual. Delegable functions have either been retained by the Office of the Secretary (OST) or have been assigned to the OAs. For delegable functions, the level indicated in the applicable chapter of this manual is the lowest organizational level to which a function may be redelegated.

(A) Higher or equivalent levels from those authorized by this manual may be specified by the Assistant Secretary for Administration or other cognizant OST official for those functions where the assigned level is within OST and by the head of the operating administration (HOA) or his/her designee if the assigned level is within the OAs.

(B) Lower organizational levels for FAR and TAR agency head functions must be authorized by the SPE (who will coordinate with other OST officials as deemed appropriate).

(C) Changes to the agency head delegations by the HOA, as discussed in subparagraph (A) above, shall be in writing and stored in a centralized location within the OAs. A copy of the delegation shall be submitted to the SPE within 30 days of issuance.

(ii) *Head of the contracting activity (HCA) (see EARL) functions.* There are certain FAR and TAR functions which are non-delegable and reserved for the HCA or equivalent

organizational level; these are indicated in the applicable chapter of this manual. For delegable functions, compliance with the level indicated in the applicable chapter of this manual is required unless otherwise authorized by the HCA.

(A) Notwithstanding the above, the HOA or his/her designee at an organizational level equal to or above the HCA may retain both delegable and non-delegable functions assigned to the HCA.

(B) Approved HCA functional delegations which are different from those specified in this manual shall be in writing and stored in a centralized location within the OA. A copy of the delegation shall be submitted to the SPE within 30 days of issuance.

(iii) Any other authorities of this manual besides those mentioned in (i) or (ii) above may be assigned to a higher level within the OA than that stipulated in this manual unless specified otherwise. Any authorities assigned or redelegated (e.g., approval of streamlined acquisition plans per TAM 1207.107) pursuant to this subparagraph shall be in writing and stored in a centralized location within the OA. A copy of the assignment/redelegation shall be submitted to the SPE within 30 days of issuance.

#### **1201.301-70 Amendment of TAM.**

(a) Changes to this manual may be the result of internal DOT personnel, other Government agencies, or the public. These changes are to be submitted in the following format to the Office of Acquisition and Grant Management, 400 7th Street, S.W., Washington, D.C. 20590:

I. PROBLEM: State the problems created by the current language and describe the factual and/or legal reasons necessitating regulatory change.

II. RECOMMENDATION: Identify the recommended change by using the current language and lining through the words being deleted and inserting proposed language in brackets. If the change is extensive, deleted language may be displayed by forming a box with diagonal lines connecting the corners.

III. DISCUSSION: Explain why the change is necessary and how the change will solve the problem. Address any cost or administrative impact on Government activities, offerors, and contractors. Provide any other helpful information and documents such as statutes, legal decisions, regulations, reports, etc.

IV. POINT OF CONTACT: Provide a point of contact for answering questions regarding the recommendation.

(b) The TAM will be maintained by OAGM through the TAR/TAM change process except for TAM Chapter 1234, Appendix A, Major Acquisition Policies and Procedures, which is

maintained through the Major Acquisition Policy Council (see TAM 1234, Appendix A). Otherwise, the TAM will be amended as determined necessary by the SPE.

(1) *TAM Chapters*. This manual will contain internal DOT acquisition procedures within chapters which supplement or implement FAR and TAR material. Chapters are normally coordinated through the TAR/TAM change process prior to issuance.

(2) *TAM Notices*.

(i) TAM Chapters will be amended by issuance of a TAM Notice (also referred to as a TAM NOTE); and

(ii) TAM Notices are: (A) used to disseminate information that is relevant to the TAM; and (B) normally integrated into the TAM. TAM Notices may occasionally contain new material that must be issued quickly without going through the TAR/TAM change process before their release. However, subsequent to their issuance, these TAM NOTES will be reviewed using the TAR/TAM change process and change pages to the TAM Chapters will be issued as appropriate.

(3) *TAM Appendices, Attachments, and Exhibits*. At the end of TAM Chapters, Notices, and Bulletins, appendices may be used to provide supplementary material not suitable for insertion in the TAM issuance itself (e.g., tables, other agency issuances). Appendices may contain attachments with or without exhibits. Attachment(s) supplement the appendix, and exhibit(s) supplement the attachment. Both are made part of the appendix. TAM appendices do not necessarily follow the format and numbering system of this manual. Additional information is available on EARL.

**1201.301-71 Effective date.**

Unless otherwise stated, the following applies--

(a) Statements in TAM NOTES to the effect that the material therein is "effective upon receipt," "upon a specified date," or that changes set forth in the document are "to be used upon receipt," mean that any new or revised procedures or forms shall be used when issuing solicitations, contracts, or modifications thereafter; and

(b) If solicitations are already in process or negotiations complete when the TAM NOTE is received, the new procedures or forms need not be used if it is determined by the COCO that it would not be in the best interest of the Government.

**1201.301-72 TAM NOTE.**

TAM NOTES will be numbered consecutively on a fiscal year basis beginning with number "01" prefixed by the last two digits of the fiscal year.

### **1201.301-73 TAR/TAM change process.**

(a) *General.* The Procurement Management Council (PMC) (see EARL) is an integral part of the TAR/TAM change process. The PMC is comprised of the Chief of the Contracting Office from the Operating Administration (OA) Headquarters office and the Senior Procurement Executive (SPE). Each OA shall have only one member on the PMC. Changes to this manual or the TAR are made through coordination with the PMC and other applicable DOT offices.

(b) *Process.* The TAR/TAM change process involves the formulation of policies and procedures through a comment process. The Office of Acquisition and Grant Management (OAGM) will use various methods (e.g., electronic media, hard copy, and discussions) to solicit and resolve comments on proposed TAM revisions.

(1) The PMC is responsible for--

(i) Reviewing proposed TAM changes and providing comments to the SPE or OAGM staff, or recommending solutions to the SPE on acquisition issues;

(ii) Recommending policies and procedures to the SPE for consideration; and

(iii) Adhering to DOT Order 4200.17, DOT Procurement Management Council.

(2) OAGM is responsible for--

(i) Formulating and distributing proposed changes;

(ii) Soliciting comments from the PMC and other interested and affected DOT offices; and

(iii) Reviewing and resolving all comments or forwarding them to the PMC for resolution.

### **1201.304 Agency control and compliance procedures.**

(a) DOT's goal is to ensure the TAR and TAM is consistent with (FAR) 48 CFR unless (FAR) 48 CFR prescribes otherwise. Due to the leadtime necessary to implement (FAR) 48 CFR changes, conflict or inconsistency may momentarily exist. In those cases, the (FAR) 48 CFR takes precedent over the TAR and TAM.

(b) *OA acquisition regulations.* OA acquisition regulations shall:

(1) Be incorporated into the TAR as a supplemental regulation;

(2) Be coordinated in accordance with OA internal procedures (including review by legal counsel) to ensure compliance with (FAR) 48 CFR 1.301 and DOT's rule-making process before submission to the SPE;

(3) Be submitted to the SPE for review and approval by a transmittal letter signed by no lower than an Associate Administrator/Flag Officer or equivalent level at the initial stages of the regulatory process (i.e., before proceeding to the public comment process); include a Paperwork Reduction Act (see TAM 1201.404(a)(2)) and Regulatory Flexibility Act analysis, as appropriate; and be supported by a justification of need for the regulation;

(4) Be disseminated by OAGM to TAR distribution addressees and by the OA to other than TAR distribution addressees; and

(5) Pertain only to that OA.

(c) *OA acquisition procedures.* OA acquisition procedures shall:

(1) Contain no material which duplicates unless necessary for clarity (this is expected to be minimally required), paraphrases, or is inconsistent with the contents of the FAR, TAR, and this manual;

(2) Be consistent with the policies and procedures of the FAR, TAR, this manual, and other Departmental guidance and follow the format, arrangement, and numbering system specified in TAM 1201.105-270 and TAM 1201.301-70 to the extent practicable; and

(3) Be reviewed, as deemed appropriate, in accordance with internal operating procedures and the following:

(i) OAs shall advise OAGM in writing (by topic) of their intent to promulgate acquisition guidance implementing or supplementing this manual. OAs will be advised of any procedures which are to be provided to OAGM for review.

(ii) The HCA is responsible for ensuring that OA contracting offices limit their promulgation of acquisition procedures and, if procedures are necessary, to ensure they comply with subparagraphs (1) and (2) above.

## **SUBCHAPTER 1201.470--DEVIATIONS FROM THE FAR, TAR, AND TAM**

### **1201.403 Individual deviations.**

(a) Requests for individual deviations from the FAR, TAR, and this manual can be granted. The authority to approve individual deviations to this manual has been delegated to the HCA or designee no lower than the Senior Executive Service (SES)/Flag Officer level, except when this



authority has been otherwise assigned by regulation (see (FAR) 48 CFR 1.405 for deviations for Treaties), statute (e.g., most Cost Accounting Standard (CAS) deviations must be granted by the CAS Board), or this manual. All deviation requests shall:

- (1) Be coordinated with legal counsel;
- (2) Cite the specific part of the FAR, TAR, or this manual from which a deviation is required;
- (3) Set forth the nature of the deviation(s); and
- (4) State the reasons for the action requested.

(b) A copy of approved individual deviations shall be provided to OAGM within 5 working days of approval so that OAGM can:

- (1) Provide a copy of FAR deviations to the FAR Secretariat in accordance with (FAR) 48 CFR 1.404; and
- (2) Determine if a TAR or TAM change should be considered.

#### **1201.404 Class deviations.**

(a) The authority of the agency head under (FAR) 48 CFR 1.404(a) to authorize class deviations is delegated to the SPE unless (FAR) 48 CFR 1.405(e) is applicable. Requests for class deviations to the FAR, TAR, and this manual shall be endorsed by the HCA or designee no lower than the SES/Flag Officer level, before submitting the request to the SPE for approval. Requests submitted shall include the same type of information as required for individual deviations in TAM 1201.403(a)(1)-(4).

(2) Suggested changes to the FAR, TAR, and this manual shall be transmitted to the SPE after review and approval of the manager of the office requesting the change (e.g, chief of the contracting office (COCO)). Those FAR recommended changes determined appropriate by the SPE will be forwarded by OAGM to the Civilian Agency Acquisition Council.

### **SUBCHAPTER 1201.6--CAREER DEVELOPMENT, CONTRACTING AUTHORITY AND RESPONSIBILITIES**

#### **1201.601 General.**

The authority of the agency head under (FAR) 48 CFR 1.601 to establish contracting activities and delegate broad authority to manage the agency's contracting functions to heads of such contracting activities is delegated to the HOAs. The Secretary, Deputy Secretary, SPE, HOAs

and HCAs (See TAM 1202.170 for a listing of DOT HCAs by position. See EARL for current HCAs by name.) shall be considered contracting officers within DOT by virtue of their positions; no Certificate of Appointment (see TAM 1201.603-3) is required. All other DOT contracting officers shall be selected and appointed under TAM 1201.603.

The Clinger-Cohen Act, P.L. 104-106, and the Office of Federal Procurement Policy, policy letter 97-01, direct the implementation of mandatory training, education, and experience requirements for entry and accession in the acquisition career field. The Department of Transportation Acquisition Career Development Policy For Contracting Professionals establishes procedures for the implementation of these requirements and other career development efforts. This document is issued under the authority of TAM 1201.103 as a supplement to TAM Chapter 1201, and is available on the DOT Acquisition and Grant Management Homepage at [www.dot.gov/ost/m60/](http://www.dot.gov/ost/m60/).

## **1201.602 Contracting officers.**

### **1201.602-2 Responsibilities.**

Contracting officers may only delegate their responsibilities to an authorized representative(s) (e.g., Bankcard recipient, contracting officers' technical representative). Any delegation of responsibility must be in writing to specified individuals (by name, not position) and clearly enumerate the delegated responsibilities and any limitations attached thereto.

### **1201.602-3 Ratification of unauthorized commitments.**

#### *(a) Definitions.*

(1) "Ratifying official" means the individual having the authority to authorize the issuance of a contract award, purchase order, or other procurement instrument providing for the ratification of an unauthorized commitment.

(2) "Unauthorized commitment", as defined in (FAR) 48 CFR 1.602-3, includes, but is not limited to, any action by a person other than the contracting officer that results in: (i) continued performance by a contractor beyond the expiration date or the price established by the procurement instrument; or (ii) the commencement of performance of work in advance of issuance of a formal procurement instrument properly executed by a duly authorized contracting officer.

#### *(b) Policy.*

(2) The authority of the HCA under (FAR) 48 CFR 1.602-3(b)(2) to ratify an unauthorized commitment remains with the HCA unless redelegated to an organizational level no lower than the COCO in accordance with (FAR) 48 CFR 1.602-3(b)(3).

(c) *Limitations.*

(7) The following procedures shall be used for ratification of an unauthorized commitment:

(i) It is the responsibility of the individual who made the unauthorized commitment to provide the following information to the ratifying official:

(A) A discussion describing the circumstances causing the unauthorized commitment;

(B) Reasons why normal procurement procedures were not followed;

(C) What bona fide Government requirement necessitated the commitment;

(D) Whether any benefit was received;

(E) The dollar value of the commitment and an evaluation of the contractor's effort in terms of appropriateness of the hours expended, type of labor used, and other costs expended;

(F) Rationale for the contractor selected and identification of other sources considered;

(G) Status of performance;

(H) Any other pertinent facts including invoices, receiving report, or other documentary evidence of the transaction;

(I) The signature, following the above information, of the employee who created the unauthorized commitment certifying to the accuracy of the information provided;

(J) Recommendations, signed by the employee's Division Director (or equivalent), for corrective action to preclude the situation from recurring; and

(K) A complete procurement request (i.e., Form DOT F 4200.1, Procurement Request), including a certification that the funds included in the purchase request for the ratifying action were available at the time the unauthorized commitment occurred.

(ii) If the individual who made the unauthorized commitment is not available, the office responsible for the commitment shall provide the information described in subparagraph (i) above with the name (vice signature) of the individual who made the unauthorized commitment.

(iii) A written contract, as defined under (FAR) 48 CFR 2.101, is not required to confirm the ratification of an unauthorized commitment. The contracting officer, on a case-by-case basis, shall decide if a contract or other written means would be appropriate for a particular situation. Such factors as the furnishing of Government property, promise of product delivery, dispute over invoiced prices, etc., are to be considered when determining if a contract will or will not be used.

(A) The complete file containing all the ratification documentation requirements of subparagraph (c)(7)(i) (also see (B) below), shall be provided to the ratifying official for a determination to ratify or not to ratify the action.

(B) Before ratification of an action, a letter requesting payment or an invoice from the contractor who provided the supply or service must be received. If not already received, the contracting officer must obtain an invoice after ratification for submission to the finance office.

(C) A memorandum signed by the contracting officer which approves the invoice shall be sent to the finance office along with the invoice. The original certified Form DOT F 4200.1, Procurement Request, (covering the total amount of the invoice), a copy of the ratifying official's ratification, and the document confirming the ratification (see subparagraph (iii) above), shall be attached to the memorandum.

(D) A copy of the memorandum, Form DOT F 4200.1, invoice, and original ratification documentation shall be retained in the contract file.

(E) A letter explaining the disposition of the unauthorized commitment shall be sent to the contractor by the contracting officer if payment will not be made.

(iv) Each contracting office shall establish a file of those actions for which ratification was requested. Each request included in the office file shall be retained for 6 years and 3 months after final payment or after the ratifying official determines that the action will not be ratified. The office file shall contain the following:

(A) The name of the office and person that made the unauthorized commitment;

(B) A brief description of the commitment, the amount of the action, and a written determination, with supporting documentation, that either the request should not be ratified or that the ratified price is fair and reasonable;

(C) The name of the firm or person to whom the commitment was made (if not in the ratification document);

(D) The date the commitment was either ratified (if not in the ratification document) or not ratified;

(E) A copy of the ratification document as applicable;

(F) Evidence of legal counsel concurrence with any ratification that is 10 percent or more of the small purchase limitation; and

(G) Any disciplinary action taken or an explanation as to why none was considered necessary.

### **1201.603 Selection, appointment, and termination of appointment.**

#### **1201.603-1 General.**

The authority of the agency head under (FAR) 48 CFR 1.603-1 to select, appoint, and terminate the appointment of contracting officers is delegated to the HCA who may redelegate this authority no lower than the COCO.

#### **1201.603-2 Selection.**

Personnel shall be selected as contracting officers using the guidance under the DOT Acquisition Career Development Policy for Contracting Professionals issued as a supplement to TAM Chapter 1201 and available on the DOT Acquisition and Grant Management Homepage at [www.dot.gov/ost/m60/](http://www.dot.gov/ost/m60/).

#### **1201.603-3 Appointment.**

(a) The delegation of contracting authority is by formal contracting officer appointments under a Certificate of Appointment, SF 1402.

(b) The appointing authority shall maintain information on the limits of contracting officer authority.

#### **1201.603-4 Termination.**

The appointing authority may terminate the appointment of a contracting officer at any time. Contracting officers whose appointments are terminated shall be given by the appointing authority (see TAM 1201.603-1) a written notice stating the reasons for, and the effective date of, the termination.

### **1201.670 Responsibility of other Government personnel.**

(a) Responsibility for the decision of what to buy and when to buy rests mainly with program and certain staff offices. Responsibility for determining how to buy, the conduct of the buying process, and execution of the contract rests with the contracting officer.

(b) Program personnel, using the contracting process to accomplish their programs, must support the contracting officer in ensuring that:

- (1) Requirements are clearly defined and specified;
- (2) Competitive sources are solicited, evaluated, and selected;
- (3) Quality standards are prescribed and met;
- (4) Performance or delivery is timely;
- (5) Prices, estimated costs, and fees are reasonable; and
- (6) Files are documented to substantiate the judgments, decisions, and actions taken.

### **1201.671 DOT's oversight role.**

OAGM is responsible for the oversight of DOT's contracting activities. This oversight focuses on how well the primary role of the procurement system--to deliver best value products and services on a timely basis to meet the needs of the transportation systems--is being accomplished. The concept of prevention rather than detection is emphasized and accomplished through such factors as enabling the organization and continuously improving the system by receiving customer feedback and measuring for performance.

## **SUBCHAPTER 1201.7--DETERMINATIONS AND FINDINGS**

### **1201.704 Content.**

The format and content requirements for determinations and findings (D&Fs) are specified in the associated subject text of this manual as considered necessary. The contracting officer is responsible for preparing D&Fs, and requirements and technical personnel are responsible for the accuracy and adequacy of the supporting factual information, which shall be furnished to the contracting officer.

## CHAPTER 1202

### DEFINITIONS OF WORDS AND TERMS

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1202.270	Listing of acronyms/office symbols used in TAM.

#### SUBCHAPTER 1202.1 - DEFINITIONS

##### 1202.1 Definitions.

(a) "*Administration Acquisition Executive (AAE)*" is the Head of the Operating Administration (HOA) or designee, no lower than two levels below the HOA but, in no case, lower than the Associate Administrator level or Chief of Staff for the Coast Guard.

(b) "*Contracting officer*" means, in addition to the definition in (TAR) 48 CFR 1202.1, the individual authorized by virtue of his/her position (see TAM 1201.601) or by appointment (see TAM 1201.603-3) to perform the functions assigned by this manual.

(c) "Electronic Acquisition Reference Library (EARL)" is an electronic reference library located on the M-60 homepage ([www.dot.gov/ost/m60/](http://www.dot.gov/ost/m60/)) which contains many of the documents referenced in TAM. Examples of documents on EARL include samples, external references, successful practices, and other information which supplements the TAM.

##### 1202.170 Listing of HCAs (see EARL) and COCOs.

(a) HCAs (see EARL). The individuals designated as HCAs (see EARL for current list by name) shall be designated by the cognizant HOA. The HOA shall notify the SPE within 10 working days of any changes shown to the following listing:

- (1) FAA: Associate Administrator for Contracting and Quality Assurance;
- (2) FHWA: Executive Director;
- (3) FRA: Associate Administrator for Administration and Finance;

- (4) FTA: Administrator;
- (5) MARAD: Associate Administrator for Administration;
- (6) NHTSA: Associate Administrator for Administration;
- (7) RSPA: Associate Administrator for Management and Administration;
- (8) SLSDC: Associate Administrator;
- (9) TASC: Director, Transportation Administrative Service Center; and
- (10) USCG: Director of Finance and Procurement.

(b) The individuals designated as COCOs shall be appointed by the cognizant HCA.

**1202.270 Listing of acronyms and office symbols used in TAM (see EARL).**

EARL contains a listing of commonly used acronyms (see EARL) and office symbols used in this manual.



## **CHAPTER 1203**

### **IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

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##### **SUBCHAPTER 1203.6--CONTRACTS WITH GOVERNMENT EMPLOYEES OR ORGANIZATIONS OWNED OR CONTROLLED BY THEM**

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##### **SUBCHAPTER 1203.7--VOIDING AND RESCINDING CONTRACTS**

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##### **SUBCHAPTER 1203.1--SAFEGUARDS**

###### **1203.104 Procurement integrity.**

###### **1203.104-3 Definitions.**

The designated agency ethics official for DOT is the Deputy General Counsel (C-1). The deputy ethics officials are the OA Chief Counsels or designees.

The authority of the head of the agency to determine whether the disclosure of other information marked as "SOURCE SELECTION INFORMATION" would jeopardize the integrity or successful completion of the acquisition to which the information relates is delegated to the contracting officer.

**1203.104-5 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.**

(a) The authority of the head of the agency to authorize disclosure of contractor bid or proposal information or source selection information to any other person or entity other than a person or entity previously authorized is delegated to the contracting officer.

(b) Individuals who either prepare or receive documents which contain proprietary or source selection information shall:

(i) Ensure that the information is marked as required by (FAR) 48 CFR 3.104-3 (under the definition for "Source selection information") and 3.104-5;

(ii) Use Form DOT F 4220.36, Cover Page Proprietary Information, to notify the recipient that the information or portions thereof is proprietary information related to the conduct of a Federal agency procurement;

(iii) Use Form DOT F 4220.35, Cover Page Source Selection Information, and comply also with the requirements of (FAR) 48 CFR 3.104-5(c) with respect to the marking of pages, to notify the recipient that the document contains source selection information;

(iv) Ensure that the information is secured and protected both during and after working hours;

(v) Ensure interoffice security mailing of the information; and

(vi) Ensure strict control over where discussions regarding the information or related acquisition are held.

**1203.104-570 Information security.**

Each contracting office and individual having access to contractor bid or proposal information, source selection information, or other sensitive procurement information shall take the steps necessary to ensure that the integrity of the procurement process is not compromised by the unauthorized disclosure of this information. Particular attention should be paid to visitors, contract file security, data security, and transmission of sensitive procurement information.

**1203.104-6 Disqualification.**

(b) *Disqualification notice.* The authority of the HCA to receive from an agency official the written notice of disqualification from further participation in a procurement is delegated to the COCO.

(c)(2) *Resumption of participation in a procurement.* The authority of the HCA to reinstate an agency official to participation in a procurement is delegated to the COCO.

## **SUBCHAPTER 1203.2--CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL**

### **1203.204 Treatment of violations.**

The authority of the agency head to determine whether a violation of the Gratuities clause by the contractor, its agent, or another representative, has occurred and the appropriate remedies is delegated to the HCA.

## **SUBCHAPTER 1203.6--CONTRACTS WITH GOVERNMENT EMPLOYEES OR ORGANIZATIONS OWNED OR CONTROLLED BY THEM**

### **1203.602 Exceptions.**

The authority of the agency head to authorize an exception to the policy in FAR 3.601 only if there is a most compelling reason to do so, such as when the Government's needs cannot reasonably be otherwise met, is delegated to the HCA. This authority cannot be redelegated below the HCA level.

## **SUBCHAPTER 1203.7--VOIDING AND RESCINDING CONTRACTS**

### **1203.703 Authority.**

(a) The authority of the head of the agency to declare void and rescind contracts and other transactions described in P.L. 87-849 is delegated to the HCA.

### **1203.704 Policy.**

(a) The authority of the agency head to declare void and rescind contracts in cases in which there is a final conviction for any violation of 18 U.S.C. 201-224 is delegated to the HCA, with written notification to be provided to the HOA, prior to voiding or rescinding a contract or other transaction as enumerated in 18 U.S.C. 218.

### **1203.705 Procedures.**

The authority of the agency head to consider the facts concerning any final conviction for any violation of 18 U.S.C. 201-224, and the decision to void and rescind contracts is delegated to the HCA, with written notification to be provided to the HOA, prior to providing notification to the Department of Justice.

(c) *Decision-Making Process.* Prior to taking the actions under (FAR) 48 CFR 3.705 concerning voiding or rescinding a contract, the contracting officer shall ensure that the file fully supports the proposed action. The opinion of legal counsel also shall be sought to ensure that all requirements of (FAR) 48 CFR 3.705 have been met.

## **CHAPTER 1204**

### **ADMINISTRATIVE MATTERS**

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## **SUBCHAPTER 1204.2--CONTRACT DISTRIBUTION**

### **1204.202 Agency distribution requirements.**

(a) In addition to the distribution requirements of (FAR) 48 CFR 4.201, the contracting officer shall distribute one reproduced, executed copy of all types of awarded procurement instruments to the following, when appropriate:

(1) The OA's property management office or property administrator (see (FAR) 48 CFR Part 45) when Government property is furnished to the contractor or when acquiring personal property as that term is defined in (FAR) 48 CFR 45.601;

(2) The requisitioning office; and

(3) The recipient of the supplies or services (including construction).

(b) The copy specified in TAM 1204.202(a)(1) is necessary to enable the recording and control of Government property, as required by DOT Order 2700.12 series, Financial Management Control of Property, and DOT 2700.8 series, Accounting Principles and Standards, by the finance office.

(c) The recipient (see subparagraph (a)(3) above) shall be requested to provide the contracting officer or designee with a written acknowledgement of receipt and acceptance of the supplies or services (including construction). Receipts are necessary to support payments made by the finance office to the contractor.

### **1204.203 Taxpayer identification number information.**

(a) In lieu of the procedure under (FAR) 48 CFR 4.203(a), the contracting officer shall attach the original completed provision at (FAR) 48 CFR 52.204-3, Taxpayer Identification Number (TIN), to the front of the finance office's copy of the contract or as otherwise authorized by OA procedures.

(b) When the TIN is obtained in accordance with the procedures of TAM 1204.902-71, the contracting officer shall annotate the contractor's TIN and corporate status on the front page of the contract document near the contractor's name and address, and forward the contract document to the paying office.

## **SUBCHAPTER 1204.4--SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY**

### **1204.403 Responsibilities of contracting officers.**

(a) *Presolicitation phase.* DOT is covered by the National Industrial Security Program (NISP) when a classified acquisition as defined under (FAR) 48 CFR 4.401 is proposed. When classified information is required by the contractor during contract performance, contracting officers shall follow the procedures of:

(1) Executive Order 12829, National Industrial Security Program (NISP);

(2) Department of Defense (DOD) 5220.22-M, Industrial Security Manual for Safeguarding Classified Information (see EARL);

(3) DOT Order 1640.4 series, Classification, Declassification, and Control of National Security Information; and

(4) (FAR) 48 CFR Subpart 4.4.

(b) *Solicitation phase.* Contracting officers shall ensure that classified acquisitions are conducted as required by the NISP. All contracting offices shall comply with the requirements of DOT Order 1640.4 series and any OA implementing procedures. Contracting officers should contact the DOT Office of Security (M-70) for assistance in the preparation of the contract security specifications.

(1) If the proposed acquisition is unclassified but the contractor will require access to privileged/sensitive information or have unrestricted access to DOT facilities, contracting officers (excluding contracting officers for the FAA, USCG, and FHWA) shall contact the DOT Office of Security (M-70) for assistance.

(2) Contracting officers for the USCG and FHWA shall contact their cognizant security office for guidance.

## **SUBCHAPTER 1204.6--CONTRACT REPORTING**

### **1204.601 Record requirements.**

(a) M-60 established and maintains the DOT Contract Information System (CIS) to meet the requirements of (FAR) 48 CFR 4.601 and also distributes progress and query reports. The CIS collects and reports data on procurement actions exceeding \$25,000. However, see TAM 1204.602(c) for reporting actions of \$25,000 or less. The CIS is used by all DOT OAs as the primary source of procurement data. Each contracting office is responsible for timely and accurate reporting of data to the CIS.

(d) Contracting officers satisfy the requirements of (FAR) 48 CFR 4.601(d) when procurements are reported to the CIS pursuant to the CIS Users Guide.

(1) To ensure that this requirement is met, Form DOT F 4220.11, DOT CIS Data Input Form, must be submitted by the preparer to the contracting officer as a document to support the award of all types of procurement instruments (e.g., contracts, contract modifications, task orders, delivery orders). The contracting officer shall not sign any contract action of any value that obligates money until the contracting officer reviews Form DOT F 4220.11.

(2) Contracting offices should submit Form DOT F 4220.11 using the CIS On-Line Data Entry System to report contractual actions. However, if the contracting officer does not have a means to submit the data, the form may be submitted to M-60 for inputting. Regardless of how the information is put into the CIS, a completed Form DOT F 4220.11 shall be placed in the official contract file.

### **1204.602 Federal Procurement Data System.**

(c) In lieu of reporting the data on SF 279, Federal Procurement Data System Individual Contract Action Report, as suggested by (FAR) 48 CFR 4.602(c), DOT contracting offices shall report the required data to the CIS by submitting the information on Form DOT F 4220.11. SF 281, Federal Procurement Data System (FPDS)--Summary Contract Action Report (\$25,000 or Less) shall be used to report contract actions of \$25,000 or less (except see TAM 1204.602-71). See EARL for instructions on how to prepare and submit SF-281, Federal Procurement Data System Summary Contract Action Report (\$25,000 or less).

(d) Contracting officers in and outside the United States shall obtain a Data Universal Numbering System (DUNS) as described in the following subparagraphs. Requests to any office besides the Dun and Bradstreet office indicated below will not be honored.



(1) To obtain up to ten DUNS by telephone, call (610) 882-7741. Dun & Bradstreet will reject all telephone requests for more than ten DUNS.

(2) To obtain more than ten DUNS, the request must be facsimiled by dialing (610) 882-7140 or mailed to the following address:

FPDC Department  
Dun & Bradstreet Information Services  
899 Eaton Avenue  
Bethlehem, PA 18025-0013

(3) The requestor must provide the following information with each telephone, written, or facsimile request to Dun and Bradstreet:

(i) Reporting agency name: U.S. Department of Transportation;

(ii) Requestor's agency code: 6901 (use this code, not the OA's number);

(iii) Contracting office code: 00059 (use this code, not the procurement office's number);

(iv) Name and telephone number of the person requesting the DUNS;

(v) Contractor's establishment name, street address, city, state, zip code, and telephone number (if available); and

(vi) If this is a foreign contractor (i.e., established outside of the U.S. and its outlying areas), provide the contractor's establishment name, street address, province (if any), city, country, postal code, and telephone number (if available).

#### **1204.602-70 Report on UNICOR acquisitions.**

Section 2901 of the Crime Control Act of 1990 (Public Law 101-647) requires each Federal department and agency to report to the General Services Administration (GSA), through the FPDS, all acquisitions of products and services from the Federal Prison Industries (UNICOR). OAs shall report all UNICOR acquisitions in accordance with the procedures under TAM 1204.602(c).

#### **1204.602-71 Acquisitions under the Small Business Competitiveness Demonstration Program.**

(a) The Small Business Competitiveness Demonstration Program (Title VII of Pub. L. 100-656) is described under (FAR) 48 CFR 19.10. (FAR) 48 CFR 19.1005 defines the four designated industry groups selected for this program, and (TAR) 48 CFR 1219.1005(b) defines

the ten targeted industry groups agreed to between DOT and SBA as required by (FAR) 48 CFR 19.1005(b).

(b) The contracting officer shall report to the CIS, by the methods described in TAM 1204.602(c), each contract action that obligates or deobligates funds of \$500 or more within the four designated industry groups or the ten targeted industry groups mentioned under paragraph (a) above. None of the acquisitions under this program shall be reported on the SF 281 (i.e., do not report those acquisitions between \$500 and \$25,000 on SF 281).

#### **1204.602-72 Uniform Procurement Instrument Identification Numbering System.**

##### **1204.602-7201 Policy.**

(a) The Uniform Procurement Instrument Identification Numbering (PIIN) System is established to control, track and identify each procurement action from receipt of the procurement request through award and closeout of the procurement instrument.

(b) Alphanumeric characters, other than those prescribed in this subchapter, shall not be used as a part of the PIIN. If additional identification is needed by the operating administration for internal reasons, it shall be placed on the procurement instrument in such a location as to separate it from the PIIN. The contracting officer shall assign a PIIN to each type of instrument described under TAM 1204.602-7202(a)(5). The number shall be retained for the life of the instrument to which it is assigned.

##### **1204.602-7202 The Basic Procurement Instrument Identification Number.**

(a) Elements of the PIIN. The PIIN shall consist primarily of 14 alphanumeric characters which may be expanded to 15 as permitted under TAM 1204.602-7202(a)(6). The characters shall be positioned as follows:

(1) Positions one and two. A two-digit alphabetic code which identifies the procuring agency. This code must always be "DT" which means the Department of Transportation.

(2) Positions three and four. A two-digit alphabetic code which identifies the DOT operating administration. The following codes shall be used:

CG - Coast Guard  
FA - Federal Aviation Administration  
FH - Federal Highway Administration  
FR - Federal Railroad Administration  
FT - Federal Transit Administration  
MA - Maritime Administration  
NH - National Highway Traffic Safety Administration

**TS** - Transportation Administrative Service Center  
**RS** - Research and Special Programs Administration  
**SL** - Saint Lawrence Seaway Development Corporation

(3) Positions five and six. A two-digit alphanumeric code which identifies the procurement office of the operating administration that issued the procurement instrument.

(4) Positions seven and eight. A two-digit numeric code which is the last two digits of the fiscal year in which the PIIN is assigned to the procurement instrument.

(5) Position nine. A one-digit alphabetic code which identifies the type of procurement instrument (i.e., agreement, sealed bidding, contracts, etc.). The following codes shall be used:

**A - Agreement:** Use for a basic agreement, basic ordering agreement, or blanket purchase agreement as defined under (FAR) 48 CFR 13.2 and 16.7. Do NOT use for Cooperative Agreements.

**B - Sealed Bidding:** Use for invitation for bids as defined under FAR 14.2.

**C - Contracts:** Use for all contracts (i.e., letter, 8(a), etc.). Also, includes contracts for appraisals, surveys, title, closing, and other work related to leasing or acquiring real estate rights. Do NOT use this code for Task or Delivery order contracts.

**D - Task Order or Delivery Order Contracts:** Use for Indefinite Quantity, Definite Quantity, and Requirements contracts as defined under (FAR) 48 CFR 16.5 (see TAM 1204.602-7203(a)(3) for numbering of individual orders under task or delivery order contracts).

**F - Task Order or Delivery Orders:** Use when placing orders directly against (1) a contract administered by another Government agency or department e.g. General Services Administration, the Department of Veterans Affairs, or the Office of Personnel Management, (2) contracts administered by agencies other than DOT including the National Industries for the Blind, National Industries for the Severely Handicapped, and the Federal Prison Industries (UNICOR), and (3) contract awarded by another DOT operating administration..

**G - Grants:** Reserved for grants when a PIIN formatted number is assigned.

**H - Cooperative Agreements:** Reserved for cooperative agreements when a PIIN formatted number is assigned.

**K - Land Purchases and Condemnations:** Use for acquisition of permanent real estate interests (fee simple or easement) by purchase or condemnation. Does not include leasehold interests (land or space) in real property.

**L - Lease Agreement:** Use for leasing real property and supplies or equipment. Also, includes instruments for both land and space where the Government obtains real estate rights and aerial easements for a limited period of time, and may or may not be monetary in consideration. Does NOT include Interagency Agreements.

**P - Purchase Orders:** Use for purchase orders described under FAR Subpart 13 (assign V, then W when numbering capacity of P becomes exhausted during a fiscal year). Also, includes orders for appraisals, surveys, title, closing, and other work related to leasing or acquiring real estate rights.

**Q - Request for Quotation:** Use when the procedures under (FAR) 48 CFR Part 13 are followed.

**R - Request for Proposal:** Use when the procedures under (FAR) 48 CFR Part 15 are followed.

**S - Sales Contract:** Use for sales and other disposal of real and personal property.

**U - Utilities:** Use for contracts for electric, telephone, water, natural gas, and other utilities.

**X - Interagency Agreements:** Use when placing an order with any other government agency (does NOT include any DOT operating administrations) for supplies or services that the servicing agency may be in a position or equipped to supply, render, or obtain by contract. (FAR) 48 CFR 17.502 applies.

The letters **E, J, M, N, T, Y and Z** are reserved for the internal use of the operating administration. These letters may **NOT** be used to identify a DOT procurement instrument in lieu of the above designated codes assigned to the type of instrument.

(6) Positions ten through fourteen or fifteen. At the discretion of the operating administration, these characters may be numeric or alphanumeric. A separate set of serial numbers may be used for any type of procurement instrument.

(b) Illustration of the PIIN. An example of a PIIN is illustrated in the below chart. The PIIN DTFA0194B00001 identifies an invitation for bids issued by the Department of Transportation, Federal Aviation Administration, Contracts Division, Washington, D.C., issued in Fiscal Year 1994.

<u>Position</u>	<u>Identification</u>	<u>Code</u>
1-2	Agency	DT
3-4	Operating Administration (OA)	FA
5-6	Procurement office of the OA	01
7-8	Fiscal Year in which the PIIN is assigned to the procurement instrument.	94
9	Type of procurement instrument	B
10-14 or 15	Numeric serial number of the procurement instrument	00001 or 000001
	or	or
	Alphanumeric serial number of the procurement instrument	AB123 or ABC123

#### **1204.602-7203 Supplementary Procurement Instrument Identification Number.**

(a) A Supplementary number shall be used in conjunction with the basic PIIN, to identify the following:

(1) Amendments to Solicitations. Amendments shall be assigned a four position alphanumeric serial number. The first position would always be A, and the last three positions would always be numbered sequentially beginning with 001. A sample amendment number would be "A001."

(2) Modifications to Contracts, Agreements, and Orders. Modifications to contracts, agreements, and orders shall be numbered sequentially with a four position numeric serial number beginning with 0001.

(3) Orders. A supplementary number shall be assigned to the following orders:

- (i) Orders placed by the OA against the OA's own contracts or agreements; and,
- (ii) Orders placed by the OA against other OA contracts or agreements.

This supplementary number shall NOT exceed fifteen positions. At the discretion of the OA, these up to fifteen positions may be a combination of numeric and alphanumeric characters. Examples are: D94230001; TE423E000; W9423CE00; and VA3001.

#### **1204.670 Acquisition related reporting requirements.**

Appendix A is a listing of various acquisition related reporting requirements. Unless otherwise advised by M-60, the COCO shall ensure that each report is submitted to the required location by the due date.

## **SUBCHAPTER 1204.8--CONTRACT FILES**

### **1204.801 General.**

The COCO is designated as the head of each office performing contracting and contract administration functions. The chief of the finance office of the OA is designated as the head of the office performing paying functions.

### **1204.804 Closeout of contract files.**

#### **1204.804-1 Closeout by the office administering the contract.**

(a) (FAR) 48 CFR Subpart 4.804 outlines detailed procedures for closing out contract files. The file is normally closed out by the contracting office administering the contract; however, as permitted by (FAR) 48 CFR Subpart 42.2, there may be instances where the file is administered by a Government agency or OA other than that which awarded the contract.

(b) A contract cannot be closed out until all terms and conditions of the contract have been satisfied by the contractor and the Government.

#### **1204.804-170 Monitoring contract closeouts.**

(a) *Policy.* Administrative Contracting Officers (ACO) are responsible for ensuring that contracts under their cognizance are closed out within the time standards set forth under (FAR) 48 CFR 4.804-1. Compliance with these standards may be beyond the ACO's control in situations where necessary administrative actions are required by others (e.g., cognizant audit agency, contractor, etc.). However, the ACO shall maintain close liaison with these entities to ensure that the necessary actions are not unduly delayed and are accomplished.

(b) *Closeout action.* The ACO shall ensure that closeout action commences on the following contract types, within the established timeframes.

(1) *Cost-reimbursement contract.* Closeout action (i.e., request for final audit, closing documents, etc.) shall commence within five working days after receipt and acceptance of all contract deliverables under the contract.

(2) *Fixed-price contract.* The contract shall be closed out and disposed of within 14 working days after final payment is made under the contract.

(c) *Tracking system.* The COCO shall develop an automated or manual contract closeout tracking information system to identify those contracts which are physically completed and ready for closeout, but have not been administratively closed out and disposed of in accordance with (FAR) 48 CFR 4.8, (TAR) 48 CFR 1204.8, and this subchapter.

(d) *System set-up.* Physically completed contracts which are not administratively closed out shall be entered into the tracking system. At a minimum, the system shall include the following information:

- (1) Contract number;
- (2) Contractor name;
- (3) Last modification number;
- (4) Total amount obligated under the contract (e.g., price; total estimated contract amount, including fee (if any); etc.);
- (5) Total amount paid the contractor under the contract;
- (6) Type of contract (identified by the following codes):
  - (i) FFP - for Firm-Fixed Price;
  - (ii) FFP/EPA - for Firm-Fixed-Price with Economic Price Adjustment;
  - (iii) FPI - for Fixed-Price-Incentive;
  - (iv) FP/PPR - for Fixed-Price with Prospective Price Redetermination;
  - (v) FC/RPR - for Fixed-Ceiling with Retroactive Price Redetermination;
  - (vi) FP/LOE - for Fixed-Price, Level-Of-Effort;
  - (vii) C - for Cost, no fee;
  - (viii) CPAF - for Cost-Plus-Award-Fee;
  - (ix) CPIF - for Cost-Plus-Incentive Fee;
  - (x) CPFF - for Cost-Plus-Fixed-Fee;
  - (xi) CS - for Cost-Sharing
  - (xii) IDDQ - for Indefinite Delivery Definite Quantity;
  - (xiii) IDIQ - for Indefinite Delivery Indefinite Quantity;

- (xiv) REQ - for Requirements;
  - (xv) T&M - for Time and Materials; and
  - (xvi) LH - for Labor Hour.
- (7) Date contract was physically completed;
  - (8) Date of final payment;
  - (9) Status of closeout;
  - (10) Date final audit requested;
  - (11) Date status of final audit was requested; and
  - (12) Anticipated date contract will be closed out.

(e) *System maintenance.* The closeout system shall be reviewed by the COCO and updated quarterly to reflect the latest status of the contract closeout and disposal. The system shall be made available for ready reference and review by DOT and other management and review groups.

#### **1204.804-5 Detailed procedures for closing out contract files.**

(b) ACOs may use a Contract Completion Statement (see EARL), to satisfy the requirements of (FAR) 48 CFR 4.804-5(b).

#### **1204.805 Storage, handling, and disposal of contract files.**

(a) DOT Order 1324.2 series, DOT Records Retention and Disposal Program, sets forth procedures for handling, storing and disposing of all files, including contract files, established by DOT. ACOs shall seek the guidance of their OA's records management officer (RMO) or their records liaison officer (RLO) for additional information concerning the requirements of the DOT Order. GSA is authorized by law to establish, operate, and maintain records centers for Federal agencies. The list of Federal Records Centers (FRC) is provided at 44 U.S.C. §2907.

(b) Files sent to a FRC must have a disposal date annotated on the front of the file. This is the date the file can and will be destroyed by the FRC. ACOs shall determine this date based on the retention period specified in (FAR) 48 CFR 4.805. Since the documents listed under (FAR) 48 CFR 4.805 are normally retained in one file in the contracting office, contract documents exceeding \$25,000 shall not be disposed of earlier than 6 years and 3 months (3 years for those valued at \$25,000 or less), after the file is sent to the FRC.



(c) Prior to disposal of a file, it may become necessary to retrieve a file from the FRC; therefore, ACOs should ensure that the RMO or RLO maintains a record of the files sent to the FRC.

## **SUBCHAPTER 1204.9--INFORMATION REPORTING TO THE INTERNAL REVENUE SERVICE**

### **1204.902 Contract information.**

(a) The authority of the head of the Federal Executive agency under (FAR) 48 CFR 4.902(a) is delegated to the SPE.

### **1204.902-70 General.**

(a) (FAR) 48 CFR Subpart 4.9 provides procedures for reporting contract and payment information to the Internal Revenue Service (IRS) as required by 26 U.S.C. §§6050M, 6041, and 6041A.

(b) The requirements of 26 U.S.C. §6050M implemented under (FAR) 48 CFR 4.902(b) should not be confused with the reporting requirement under (FAR) 48 CFR 4.903(b) (26 U.S.C. §§6041 and 6041A). The distinct difference between the two requirements is as follows:

(1) 26 U.S.C. §6050M requires award information on certain contracts, and the contracting offices satisfy this requirement when the information is reported to the DOT contract information system monthly and then subsequently sent to the Federal Procurement Data System by computer tape each quarter by M-60. The Director of the Federal Procurement Data Center extracts the requisite information from the FPDS and files the required information with the IRS.

(2) 26 U.S.C. §§6041 and 6041A require Federal agencies to report to the IRS all individuals, partnerships, proprietorships, etc. that will be paid \$600 or more in a calendar year for "services" rendered. This means that any contractor that is NOT a corporation that is paid \$600 or more a year for providing services under a purchase order, contract, etc. must be reported to the IRS. Even though corporations are exempt from this reporting requirement, payments to corporations engaged in providing medical and health care services must be reported if that corporation will be paid \$600 or more in a calendar year for rendering the "services." It is the responsibility of the contracting officer to identify those contractors that are subject to the reporting requirements of (FAR) 48 CFR 4.903 and report this information to the paying office as provided in TAM 1204.902-71.

### **1204.902-71 Reporting procedures.**

Contracting officers shall use the following procedures to identify and report to the paying office, payments made to the contractors:

(a) When the amount of the proposed acquisition is \$600 to \$25,000, the contracting officer may use Appendix C to determine whether the contractor's payments under the proposed acquisition are reportable to the IRS.

(1) If Form 1099-MISC does apply, the contracting officer must obtain the contractor's TIN from the contractor. Depending on the corporate status of the contractor (i.e., sole proprietorship, partnership, a corporation providing medical and health care services, etc.), the contractor's TIN may be the Social Security Number or Employee Identification Number.

(2) If the contractor refuses to provide a correct TIN or must obtain one from the IRS, the contractor shall be informed that in accordance with IRS regulations, payments to be made under the contractual document may be subject to back-up withholding until the TIN is provided to the paying office.

(b) When the amount of the proposed award is over \$25,000 and the payments are subject to the reporting requirements of (FAR) 48 CFR 4.903(a), the contracting officer shall follow the procedures in TAM 1204.203(a) or as otherwise required by OA procedures.

(c) Upon receipt of the information from the contracting officer, the paying office of each OA is responsible for submitting the appropriate IRS form (e.g., Form 1099-MISC) to the IRS.

## **SUBCHAPTER 1204.70--REVIEW AND APPROVAL OF CONTRACTS AND CONTRACT RELATED DOCUMENTS.**

### **1204.7000 Scope of subchapter.**

(a) Except as provided in subparagraph (b) below, this subchapter sets forth the review and approval requirements for proposed solicitations, prenegotiation and price negotiation memoranda, contract awards, and contract modifications when the value of the acquisition (inclusive of options) exceeds \$25,000. The award approval requirements under this subchapter are in addition to the approval requirements of TAM 1205.303, Announcement of contract awards.

(b) This subchapter does not apply to--

(1) Acquisitions made under Parts 8, 13, or 17.5 of the (FAR) 48 CFR; or

(2) Acquisitions subject to (FAR) 48 CFR Part 15. These acquisitions shall be reviewed and approved in accordance with OA procedures.

### **1204.7001 Definitions.**

The following definitions are only applicable to this TAM subchapter:

(a) "Independent review" means review by a procurement professional(s) other than the drafter of the document being reviewed or the contracting officer responsible for the acquisition (e.g., a review board, a member of the policy staff, another contracting officer of an equal or higher organizational equivalent).

(b) "Legal sufficiency" means that the document has been reviewed and determined to be in compliance with applicable statutes, regulations, and procedures by an attorney in the OA legal counsel's office.

(c) "Review" means to scrutinize the document to ensure that the contracting officer has complied with acquisition statutes, regulations, policies and procedures; has followed sound business practices; and has ensured that the contents of the contract file are in accordance with (FAR) 48 CFR 4.803.

#### **1204.7002 General requirements.**

(a) Contracting officers may authorize concurrent reviews of documents as appropriate.

(b) *The requirements of this subchapter do not preclude other internal reviews that may be required by the OAs (e.g., coordination with quality assurance personnel, operational users, etc.).*

(c) At remote contracting activities where the contracting officer is the highest ranking official, review at a level above the Contracting Officer is not required, unless otherwise directed by OA procedures.

#### **1204.7003 Review and approval procedures.**

(a) The contracting officer responsible for the acquisition shall review the solicitation, prenegotiation and price negotiation memoranda, contract or contract modification, as applicable, prior to the other reviews required by this subchapter. The contracting officer is the level of approval for all proposed solicitations, prenegotiation and price negotiation memoranda, contract awards, and contract modification awards valued between \$25,000 and \$500,000. The contracting officer also is the level of approval for selected contract modifications which exceed \$500,000 (see subparagraph (c)(3) below).

(b) The contracting officer shall ensure that all solicitations, contract awards, and contract modification awards are coordinated with the cognizant technical/program office prior to issuance or award. Additionally, all solicitations, contract awards, and contract modification awards expected to exceed \$500,000 shall be reviewed for legal sufficiency.

(c) In addition to the requirements contained in subparagraphs (a) and (b) above, OAs shall ensure that review and approval is made of the following documents for proposed acquisitions expected to exceed \$500,000:

(1) *Solicitations*: An independent review shall be performed of the solicitation. Based on this review, an individual at a level above the contracting officer responsible for the action shall approve the solicitation prior to its release to prospective offerors.

(2) *Pre/Price Negotiation Memoranda*: Prenegotiation and price negotiation memoranda shall be reviewed and approved by an individual at least one level above the contracting officer responsible for the acquisition.

(3) *Contract and Contract Modification Awards*: An independent review shall be made of the contract or contract modification, as applicable and the contract file. The contract document submitted for review must be accompanied by the file which must contain all required documentation (e.g., prenegotiation and price negotiation memoranda, determinations and findings, etc.) to support the proposed award. Based on this review, an individual, at a level above the contracting officer responsible for the acquisition, shall approve the proposed award. Note: The contracting officer is the level of approval for all unilateral contract modifications that do not require a proposal from or negotiations with the contractor (e.g., those for incremental funding and exercising options).

#### **1204.7004 Procedural documentation requirements.**

(a) The contract file shall clearly indicate that the reviews mandated by this subchapter have been accomplished. All approval decisions and the resolution of all comments, if any, shall be in writing (signed and dated) and placed in the contract file.

(b) If the award approving official conditionally approves or disapproves the award, the contracting officer shall include in the contract file a written determination (signed and dated) indicating that all of the conditions (e.g., corrections, deletions, additions, changes, etc.) were satisfied prior to award.

#### **1204.7005 Periodic compliance reviews.**

OAs with field contracting offices shall conduct, in accordance with the procedures of the OA, periodic oversight reviews (e.g., an established procurement management review program, review of selected procurement actions by Headquarters, etc.) of solicitations, prenegotiation and price negotiation memoranda, contract awards, and contract modification awards. All reviews shall be documented in writing.

The following is not an all inclusive listing of reporting requirements. There may be other procurement related reports which may be required by statute, the FAR, or other agency regulations.

## REPORTING REQUIREMENTS

TITLE OF REPORT	REFERENCE	DATE DUE	WHERE
Report of Proposed Federal Construction*	<u>TAM 1236</u> ; 29 CFR 1.4	Annually; March 30	DOT, M-60
Report of Contractor Held Property*	(FAR) 48 CFR Part 45; (TAR) 48 CFR/TAM 1245	Annually; October 31	DOT, M-40
Major Preference Program Goals and Achievements Report*	<u>TAM 1219</u>	Monthly; the 20th	DOT, S-40
Semi-annual Labor Enforcement Report*	(FAR) 48 CFR Part 22; <u>TAM 1222.4</u> ; 29 CFR 5.7(b)	Semi-annually; April 25 and October 25	DOT, M-60
Resource Conservation and Recovery Act Report*	(TAR) 48 CFR/TAM 1223.4; Pub. L. 98-616; E.O. 12780	Annually; December 1	DOT, M-60
SF 281, FPDS Summary Contract Action Report (\$25,000 or Less)	(FAR) 48 CFR Part 4.6	Quarterly; January 25, April 25, July 25, and October 25	DOT, M-60
SF 294, Subcontracting Report for Individual Contracts	(FAR) 48 CFR 19.7; SF 294	Semi-annually; April 30; October 30	Contracting Officer and S-40
SF 295, Summary Subcontract Report	(FAR) 48 CFR 19.7; (TAR) 48 CFR 1252.219-70	See reverse of SF 295	DOT, S-40

## REPORTING REQUIREMENTS (con't)

TITLE OF REPORT	REFERENCE	DATE DUE	WHERE
Undefinitized Contract Action (UCA) Report*	<u>TAM 1243.70</u>	Upon request from M-60	DOT, M-60
Value Engineering Report*	OMB Circular A-131	Annually; December 7	VOLPE, NTSC (DTS-801)
Report on Federal Support to Universities, Colleges, and Nonprofit Institutions	Section 3(a)(7) of the National Science Foundation Act	Annually; February 15	DOT, RSPA (Code DRT-1)
Procurement Forecast Initial and Update	Pub. L. 100-656; <u>TAM 1219.2</u>	Sept 15 (Init.) and Apr 15 (Update)	DOT, S-40

For those reports with an (\*), if there was no activity for the period being reported, a negative response for the period must be submitted to the requiring office.

**RESERVED**

**CHECKLIST FOR IDENTIFYING A FORM 1099 CONTRACTOR**

1. Is the Contractor a health service provider? // YES // NO
  - a. If YES, Form 1099 applies.  
(Notify payment office in accordance with TAM 1204.9)
  - b. If NO, go to #2.
2. Is the contract for rental to the Government? // YES // NO  
(Note: Rentals could include rental of office space, warehouse space, equipment, parking spaces, etc.)
  - a. If YES, go to #5 because Form 1099 may apply.
  - b. If NO, go to #3.
3. Is the contract for services? \\ YES \\ NO  
(Note: Services include but are not limited to: training; instructors; appraisal services; expenses commingled with fees and commissions, architectural and engineering services; moving services, courier services; news clipping services; security and guard services; maintenance services for building and equipment, including automatic data processing; cleaning services for drapes, carpets, furniture; vehicle repairs; trash and snow removal; copying or printing services; construction services; seizure expenses (towing, storage, locksmith, appraisals, auctioneering, title search); court reporters; video preparation; repairs to equipment; purchase and maintenance of equipment; and telephone answering. This list applies even when the services are only a part or even a secondary part of the contract or order.)
  - a. If YES, go to #4.
  - b. If NO, Form 1099 does not apply.
4. Is the contractor a corporation? // YES // NO
  - a. If YES, Form 1099 does not apply UNLESS the contractor is a health service provider. If the contractor is a health service provider, notify the payment office in accordance with TAM 1204.9.
  - b. If NO, go to #5.



5. Is the contractor a partnership, sole proprietorship, individual, estate, trust, or joint venture? // YES // NO

- a. If YES, Form 1099 applies.  
(Notify payment office in accordance with TAM 1204.9)
- b. If NO, Form 1099 does not apply.



## **CHAPTER 1205**

### **PUBLICIZING CONTRACT ACTIONS**

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##### **SUBCHAPTER 1205.2--SYNOPSIS OF PROPOSED CONTRACT ACTIONS**

###### **1205.202 Exceptions.**

(b) The authority of the agency head under (FAR) 48 CFR 5.202(b) to determine in writing, after required consultation, that advance notice of proposed contract actions is not appropriate or reasonable is delegated to the HCA.

###### **1205.203-70 Publicizing and response time.**

The U.S. Department of Commerce has established the Commerce Business Daily on the Internet. The Internet address is <http://cbdnet.access.gpo.gov> and OAs can enter synopses online through this service. A password must be obtained by calling 1-800-576-8476 (outside the D.C. area) and 202-512-2083 (in the D.C. area). The help desk can be reached on 1-888-293-6498.

## **1205.207 Preparation and transmittal of synopses.**

(b)(1) *General.* DOC has advised that all incorrectly formatted CBD notices will be returned unpublished to the originating contracting office.

(b)(4) *Standard format.* When preparing synopses, the following is applicable:

### **FORMAT ITEM AND EXPLANATION DESCRIPTION OF ENTRY**

**4. FEDERAL INFORMATION PROCESSING STANDARD (FIPS) NUMBER.** The following numbers for the OAs apply:

6901 - TASC (including OST, BTS, and STB)  
6920 - FAA  
6925 - FHWA  
6930 - FRA  
6938 - MARAD  
6940 - NHTSA  
6943 - RSPA  
6947 - SLSDC  
6950 - USCG  
6955 - FTA

**6. CLASSIFICATION CODE.** The CBD staff is not authorized to determine the classification code for any CBD notice. Because a misclassified contract action fails to notify the firms most likely to respond and therefore may violate the Competition in Contracting Act, the contracting officer is held responsible for correctly classifying a CBD notice. A misclassified contract action shall be corrected and re-synopsized in the CBD. Detailed CBD classification codes appear in each Monday edition of the CBD in the Section entitled "Reader's Guide."

**17. DESCRIPTION.** To promote the financial assistance programs available from the OSDBU (S-40), procurement offices shall add the following information in Item #17 of each synopsis of an acquisition containing a bonding requirement:

**ATTENTION:** Minority, Women-owned, and Disadvantaged Business Enterprises (DBEs)! The Department of Transportation (DOT), offers working capital financing and bonding assistance for transportation related contracts. DOT's Bonding Assistance Program (BAP) offers bid, performance and payment bonds on contracts up to \$1,000,000. DOT's Short-Term Lending Program (STLP) offers lines of credit to finance accounts receivable. Maximum line of credit is \$500,000 with interest at the prime rate. For further information, call (800) 532-1169. Internet address: <http://osdbuweb.dot.gov>.

When synopsising all other acquisitions that do not require bonding, add the following information to Item #17:

**ATTENTION:** Minority, Women-owned, and Disadvantaged Business Enterprises (DBEs)! The Department of Transportation (DOT), Short-Term Lending Program (STLP) offers working capital financing in the form of lines of credit to finance accounts receivable for transportation related contracts. Maximum line of credit is \$500,000 with interest at the prime rate. For further information, call (800) 532-1169. Internet address: <http://osdbuweb.dot.gov>.

## **SUBCHAPTER 1205.3--SYNOPSIS OF CONTRACT AWARDS**

### **1205.301 General.**

If it is determined that synopsis of award is unnecessary, the rationale shall be documented in writing and included in the contract file.

#### **1205.301-70 Synopsis of contracts containing Pub. L. 95-507 subcontracting plans and goals.**

The synopsis of contract award, where applicable, shall include a statement identifying the contract as one containing Pub. L. 95-507 ((FAR) 48 CFR 19.702) subcontracting plans and goals.

### **1205.303 Announcement of contract awards.**

(a) *Public announcement.* Contracts valued at \$1.5 million or more shall not be distributed nor any information released to any source outside of DOT (except in the case of notification to unsuccessful offeror(s) under a small business set-aside ((FAR) 48 CFR 15.1003(b)(2)) that the contract has been approved until the Assistant Secretary for Government Affairs (I-1) or designee has advised the contracting officer (or other official designated in accordance with OA procedures) that the contract may be released. The contracting officer may sign the contract, but no information may be released outside of DOT until the procedures contained in the subparagraphs below have been accomplished.

(1) The contract notification procedures contained in this subchapter (supplemented as necessary by OA procedures) and Form DOT F 4220.41, Contract Award Notification (see TAM 1253.205-70), shall be used to transmit the required contract award information to I-1. The information contained on Form DOT F 4220.41 will be used by I-1 when preparing press releases and otherwise announcing contracts.

(2) Form DOT F 4220.41 shall be prepared, signed, and submitted to I-1 by the contracting officer or other official designated by the OA by hand-carry (Room 10408 of the Nassif Building) or facsimile transmission ((202) 366-3675) for procurement actions.

(3) For those procurements subject to the requirements of Subchapter 1215.3, Source Selection, after the Source Selection Authority has selected the contractor(s) for award, the contracting officer shall be notified immediately so that the Form DOT F 4220.41 can be prepared, signed, and transmitted to I-1. All personnel are reminded that contract information contained on Form DOT F 4220.41 may be competition sensitive. Information concerning the award shall not be disclosed to parties outside of DOT except by I-1 and the contracting officer.

(4) Unless I-1 requests the contracting officer or other designated official not to proceed with contract award, awards may be announced on the third working day following receipt of the Form DOT F 4220.41 in I-1. The contracting officer is responsible for documenting the date the DOT F 4220.41 is received by I-1 by verifying receipt at (202) 366-9714.

## **SUBCHAPTER 1205.4--RELEASE OF INFORMATION**

### **1205.401 General.**

After consultation with OA legal counsel and/or personnel from the Freedom of Information Act (FOIA) office (as applicable), the contract file shall be documented to provide the rationale for withholding information other than that permitted to be withheld in (FAR) 48 CFR 5.401(b). A copy of the response from the FOIA office denying the request may be included in the file as the documentation.

### **1205.403 Requests from Members of Congress.**

(a) *Individual requests.* The authority of the agency head to approve the release of certain contract information to Members of Congress under (FAR) 48 CFR 5.403(a) is delegated to the HCA.

### **1205.404 Release of long-range acquisition estimates.**

#### **1205.404-1 Release procedures.**

(b)(1) Contracting officers shall comply with the security requirements set forth under TAM 1204.4 concerning the release of classified information.

## **SUBCHAPTER 1205.5--PAID ADVERTISEMENTS**

### **1205.502 Authority.**

(a) *Newspapers.* The authority of the head of the agency to approve the publication of paid advertisements in newspapers under (FAR) 48 CFR 5.502(a) is delegated one level above the contracting officer.





## **CHAPTER 1206**

### **COMPETITION REQUIREMENTS**

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##### **SUBCHAPTER 1206.1--FULL AND OPEN COMPETITION**

###### **1206.003 Definitions.**

"Agency competition advocate" (see EARL) means an individual designated by the Secretary to perform, at a minimum, the functions under FAR 6.502(b) and is synonymous with "Departmental competition advocate" and "Senior competition advocate."

"Competition advocate for the procuring activity" means the individual who has been designated by the Head of the Operating Administration (HOA) to approve JOTFOCs as permitted by the Federal Acquisition Regulation (FAR) 6.304 and to perform the duties and responsibilities assigned under FAR 6.502. This is synonymous with procuring activity competition advocate.

"Procuring activity," for the purposes of this chapter, means any headquarters or field organization designated by the HOA as having a significant acquisition function.

## **1206.102 Use of competitive procedures.**

(b) If only one responsible offer is received from the release of a competitive solicitation, the contracting officer shall attempt to ascertain the reasons for the lack of response and place a written statement in the contract file documenting all conclusions regarding the lack of competition under the solicitation prior to proceeding to award.

## **SUBCHAPTER 1206.2--FULL AND OPEN COMPETITION AFTER EXCLUSION OF SOURCES**

### **1206.202 Establishing or maintaining alternative sources.**

The authority of the agency head under (FAR) 48 CFR 6.202(a) to exclude a particular source from a contract action in order to establish or maintain an alternative source, and under (b)(1) to approve a D&F in support of a contract action awarded under the authority of (FAR) 48 CFR 6.202(a) is delegated to the HCA.

## **SUBCHAPTER 1206.3--OTHER THAN FULL AND OPEN COMPETITION**

### **1206.302 Circumstances permitting other than full and open competition.**

#### **1206.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.**

The authority of the agency head to determine that only specified makes and models of technical equipment will satisfy the agency's need under (FAR) 48 CFR 6.302-1(b)(4) is delegated to the HCA.

#### **1206.302-2 Unusual and compelling urgency.**

The contracting officer shall ensure that the justification supporting the use of this authority is approved prior to contract award unless immediate loss of life or property, or other equally compelling circumstances, are involved. When such a compelling circumstance exists, the contracting officer should inform the approving official of the action at the earliest opportunity, preferably before award. In cases involving approval after award, the justification required by (FAR) 48 CFR 6.303 shall contain a summary of facts justifying approval after award, including a statement of the number of days that were available to execute the justification prior to award.

#### **1206.302-7 Public interest.**

(a) The authority of the head of the executive agency to authorize other than full and open competition due to public interest under (FAR) 48 CFR 6.302-7 is reserved by the Secretary and

may not be delegated. OAs shall coordinate and process all requests for a Secretarial determination under this authority through the Senior Competition Advocate (SCA) (see EARL) via the HOA. The SCA shall review the request and shall prepare a recommendation to the Secretary regarding the merits of the request.

(b) All supporting documentation and a proposed determination and findings to be signed by the Secretary must accompany the request.

#### **1206.304 Approval of the justification.**

(a) Individuals acting in the place of approving officials must also meet the qualification requirements of (FAR) 48 CFR 6.304.

(b) Class justifications shall be approved by the same approval authority as for individual justifications (see FAR 6.304(a) and TAM 1206.304(a) above).

### **SUBCHAPTER 1206.5--COMPETITION ADVOCATES**

#### **1206.501 Requirement.**

(a) The authority of the head of the executive agency under (FAR) 48 CFR 6.501 to appoint the Departmental Competition Advocate (see EARL) is reserved by the Secretary and may not be delegated.

#### **1206.570 Competition advocates for the procuring activity.**

A listing of OA positions designated as competition advocates for the procuring activity (see TAM 1206.003 above) is maintained by OAGM. Any revisions to this listing shall be provided to OAGM by the HOA or designee within 10 working days of designation.

1

2

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## **CHAPTER 1207**

### **ACQUISITION PLANNING**

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#### **1207.000-70 Purpose.**

This chapter establishes a disciplined Departmentwide planning procedure for procuring supplies (including systems) and services.

#### **SUBCHAPTER 1207.1--ACQUISITION PLANS**

##### **1207.101 Definitions.**

"Acquisition Plan", as used in this chapter, means a document used to fulfill the acquisition planning requirements of Appendix A to TAM Chapter 1234.

"Streamlined Acquisition Plan" means an abbreviated version of an Acquisition Plan, as described in this subchapter.

"Plan" means an acquisition plan, or a streamlined acquisition plan.

#### **1207.101-70 Applicability.**

The type of documentation to support DOT acquisition planning is commensurate with the complexity and dollar value of the procurement(s) involved. DOT's implementation of (FAR) 48 CFR Part 7 acquisition planning requirements is as follows:

(a) For acquisitions over \$100,000 to \$5 million, procurement forecasting, as described in TAM 1219, satisfies the requirement for acquisition planning under (FAR) 48 CFR Part 7.

(b) All proposed DOT acquisitions over \$5 million but less than \$50 million except for acquisitions involving construction and other improvements to real property (as defined in (FAR) 48 CFR Part 36) must have either an acquisition plan in accordance with TAM Chapter 1234, Appendix A, or a streamlined acquisition plan as described in TAM 1207.105-70.

(c) All proposed acquisitions of \$50 million or more as well as those acquisitions under \$50 million which are designated as or included as part of a major acquisition in accordance with TAM Chapter 1234, Appendix A, are subject to the acquisition planning requirements contained therein.

(d) Acquisition planning is not required for:

(1) Agreements between DOT elements in which all work is performed by DOT personnel;

(2) Emergency acquisitions (i.e., when the need for the supplies/services is of such an unusual and compelling urgency that the Government would be seriously injured if the supplies/services were not immediately acquired);

(3) Actions subsequent to the initial submittal of a plan which have already been included as part of an approved plan (e.g., exercise of options); and

(4) Procurements conducted under the Small Business Innovative Research Program.

(e) Acquisition Planning is not required for General Working Agreements and supporting Project Plan Agreements between RSPA/Volpe National Transportation Systems Center and DOT OAs (see (TAR) 48 CFR 1202.1). However, acquisitions (pursuant to (FAR) 48 CFR 2.101) resulting from General Work Agreements and Project Plan Agreements are subject to the acquisition planning requirements of this chapter.

### **1207.102 Policy.**

(a) Acquisition planning must be initiated well in advance of the fiscal year in which contract award(s) is necessary. Preliminary acquisition efforts (e.g., defining requirements; issuing market search synopses and draft specification/ statements of work; preparing and releasing draft solicitations) may be performed before the plan is completed and approved. If the approved acquisition strategy in the plan is different than what was included in the initial draft RFP, strong consideration should be given to issuing another draft RFP to inform industry of the changes.

(b) No synopsis for a solicitation may be released, solicitations issued, or funds transferred within or outside the Department until the plan has been completed and approved.

### **1207.103 Agency-head responsibilities.**

(p) See TAM 1207.503(e) for implementing procedures regarding functions that are inherently governmental.

### **1207.103-70 Other officials' responsibilities.**

(a) *Acquisition planner.* The development of plans, and updates to them, is the responsibility of the acquisition planner (e.g., program manager). The acquisition planner is located within the requiring agency (if outside DOT) or within the requiring OA (if within DOT). The acquisition planner, among other functions, shall:

(1) form a team of individuals responsible for developing acquisition planning information pertinent to their areas of expertise;

(2) coordinate with all personnel responsible for significant aspects of the plan (e.g., contracting, fiscal, legal, technical, and logistics);

(3) provide input to the plan as necessary;

(4) obtain applicable concurrences;

(5) forward the plan through the approval process; and

(6) review and update the plan.

(b) *Technical official.* The technical official is responsible for providing applicable input for the plan (e.g., quality, quantity, delivery requirements).

(c) *Contracting Officer.* The contracting officer is responsible for providing applicable input for the plan (e.g., type of contract to be used, procurement milestones, set-aside considerations).

(d) *Competition Advocate*. The cognizant competition advocate within the OA is responsible for reviewing streamlined acquisition plans before they are submitted to the approving official when other than full and open competitive procedures are expected to be used.

#### **1207.105 Contents of written acquisition plans.**

##### **1207.105-70 Minimum contents of streamlined acquisition plans.**

Although OAs may add additional requirements at their discretion, the following information, as a minimum, shall be addressed in streamlined acquisition plans:

(a) *Requirement*. Briefly describe the capability needed (in functional terms) within an OA's overall mission. Assess as to why existing capabilities are not sufficient and list any known constraints (including budget, legal, personnel, logistics and maintenance considerations, etc.). In addition, include the potential opportunities for technological enhancement, obsolescence of equipments, and cost savings.

(b) *Description of Acquisition*. Identify how the requirement is to be satisfied and the technical and contractual history of the proposed acquisition.

##### *(c) Resources Required.*

(1) List, by fiscal year, the total minimum and maximum resources in terms of dollars, new positions, etc., needed for the acquisition. Relate resources to budget requests (i.e., how will the budgeting be accomplished for the resources needed?). Indicate if other Governmental agencies or DOT OAs are affected.

(2) Describe the methodology used in formulating the Government's best estimate of the total cost. Items that are considered to have sufficient cost impact to warrant special consideration are to be separately identified. Any plans for developing cost estimates (see EARL) such as: Independent Cost Analysis, Make or Buy programs, Design-to-Cost, Most Probable Cost, and Life-Cycle Cost estimates should be presented.

(d) *Extent of Competition*. Describe how competition will be obtained during the acquisition while considering opportunities for small business, small disadvantaged business, and labor surplus area concerns. Include in the discussion any opportunities for competition resulting from component or subsystem breakout, spare and repair parts, or subcontracting efforts. If other than full and open competitive procedures are anticipated to be used address:

(1) the basis for the use of the applicable authority of (FAR) 48 CFR 6.302;

(2) why full and open competition cannot be obtained; and



(3) identification of the expected source(s).

(e) *Acquisition Strategy*. Provide a summary of the acquisition strategy by addressing: type of contract proposed (including any incentives contemplated); milestones for the acquisition cycle (expressed in terms of calendar date of the action); period of performance (including option year(s)); set-aside considerations; special contract requirements; non-standard provisions and clauses; streamlining techniques to be used; and any other contracting considerations.

(f) *Description of Risks*. Briefly describe those areas of the acquisition which are believed to represent significant technical, schedule, or cost risks.

**1207.105-71 Reserved.**

**1207.105-72 Eliminating redundancies.**

(a) For those acquisitions where the OA requires a separate Mission Need Statement (MNS) beyond that required by TAM 1207.105-70(a), the OA's MNS may be attached to the plan in lieu of repeating the MNS information in the plan.

**1207.170 Waivers.**

Waiver requests to the planning requirements in this subchapter shall be submitted through the OA approving official to the SPE for approval. Waiver requests shall contain sufficient detail to clearly explain the basis for the request, procedures sought to be waived, and any recommended alternative action.

**1207.171 Update, approval, and distribution procedures for streamlined acquisition plans.**

(a) *Updates*. Plans are to be reviewed by the acquisition planner at least once every 12 months.

(1) Plans are to be updated when a significant change from the approved plan is contemplated (e.g., a new requirement, change in existing requirements, and change in acquisition strategy including contract type, cost growth, etc.);

(2) If, during a 12 month period, no significant change as discussed in subparagraph (1) above has occurred, the plan shall be reviewed and the approving official shall certify, using the cover page for the Streamlining Acquisition Plan (see EARL) shown in Appendix A to this chapter (or one similar to it in accordance with OA procedures), that the information contained in the plan is accurate and complete and that no change is required.

(b) *Approval*. Plans and updates to them shall be coordinated with and signed (representing concurrence/endorsement of the plan) by the responsible technical official, the contracting officer, and the cognizant competition advocate (if appropriate), before the plan or update is

provided to the approving official. The approving official(s) for plans shall be designated by the HOA in writing and shall be no lower than the Associate Administrator/Regional Administrator/Coast Guard Chief of Staff level.

(c) *Distribution.* When plans or updates to them are distributed, they shall include a completed copy of the cover page.

## **SUBCHAPTER 1207.2--PLANNING FOR THE PURCHASE OF SUPPLIES IN ECONOMIC QUANTITIES**

### **1207.204 Responsibilities of contracting officers.**

(a) The contracting officer shall transmit in writing to the cognizant requirements office either the actual offeror responses or a summary of their salient points.

(b) All transmittals shall request a prompt response which is to indicate whether the acquisition should remain as is, be amended, or cancelled. Before continuing with the negotiation or award of the acquisition, the contracting officer shall decide, in conjunction with the program manager, if continuing outweighs the potential cost saving benefits of delaying the acquisition.

## **SUBCHAPTER 1207.4--EQUIPMENT LEASE OR PURCHASE**

### **1207.401 Acquisition considerations.**

The decision to lease versus purchase equipment shall be documented in the contract file and address, as a minimum, the factors in (FAR) 48 CFR 7.401.

## **SUBCHAPTER 1207.5--INHERENTLY GOVERNMENTAL FUNCTIONS**

### **1207.503 Policy.**

(e) Contracts cannot be awarded for services/functions that are inherently governmental as defined in FAR 7.501. A written determination by the requiring office shall accompany purchase requests for services (either in whole or in part) that confirms that none of the services to be performed are inherently governmental. Any disagreement pertaining to the determination shall be resolved by the Chief of the Contracting Office before release of the solicitation.

**COVER PAGE**  
**STREAMLINED ACQUISITION PLAN**  
(insert the acquisition(s) covered by the plan)

(check the appropriate item(s))

\_\_\_\_\_ The attached initial plan is forwarded for approval.

\_\_\_\_\_ Attached is an update to the initial plan submitted for approval.

\_\_\_\_\_ Certification that the current plan is accurate and complete and no changes are currently required.

_____	_____
Preparer/Planner	Date

_____	_____
Cognizant Technical Official (if different from Preparer/Planner)	Date

_____	_____
Contracting Officer	Date

_____	_____
OA's Cognizant Competition Advocate (if applicable)	Date

**Approval/Certification:**

_____	_____
Approving Official	Date



## **CHAPTER 1208**

### **REQUIRED SOURCES OF SUPPLIES AND SERVICES**

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##### **SUBCHAPTER 1208.1--EXCESS PERSONAL PROPERTY**

###### **1208.101 Definition.**

The authority of the agency head under (FAR) 48 CFR 8.101 to make "excess personal property" determinations has been delegated to the offices shown in Appendix A. HOAs or their designees shall notify M-60 within 30 days of any updates to this listing.

##### **SUBCHAPTER 1208.8--ACQUISITION OF PRINTING AND RELATED SUPPLIES**

###### **1208.802 Policy.**

(b) The authority of the head of the agency under (FAR) 48 CFR 8.802(b) to establish a central printing authority for DOT has been delegated to the Chief, Publications Services Division, TASC. Each OA has appointed a printing control point (see Appendix B), whose approval shall be obtained prior to acquiring **in any manner** any of the supplies or services delineated in (FAR) 48 CFR 8.802(b). HOAs or their designees shall notify M-60 within 30 days of any updates to this listing.

## **SUBCHAPTER 1208.11--LEASING OF MOTOR VEHICLES**

### **1208.1102 Presolicitation requirements.**

(a)(2) The authority of the head of the requiring agency under (FAR) 48 CFR 8.1102(a)(2) has been delegated to the Office of Security and Administrative Management, OST. While the Office of Security and Administrative Management is responsible for issuing Departmental policy, the OA offices shown in Appendix C are responsible for the certification requirements in (FAR) 48 CFR 8.1102(a). HOAs or their designees shall notify M-60 within 30 days of any updates to this listing.

(c) COCO approval as required by (FAR) 48 CFR 8.1102(c) shall be in writing and included in the contract file.

**LISTING OF OA OFFICES RESPONSIBLE FOR MAKING  
EXCESS PERSONAL PROPERTY DETERMINATIONS**

*FHWA:* Office of Management Systems, Operations and Services Division (HMS-20)

*FRA:* Office of Acquisition and Grants Services (RAD-30)

*FTA:* Associate Administrator for Administration, Administrative Services Division (TAD-12)

*MARAD:* Associate Administrator for Administration, Office of Management Services (MAR-310)

*NHTSA:* Associate Administrator for Administration, Administrative Services Division (NAD-50)

*TASC:* Personal Property, Facilities Services Center (SVC-110)

*RSPA:* For Headquarters: Associate Administrator for Management and Administration, Administrative Services (DMA-11); for Volpe National Transportation Systems Center (VNTSC): Office of Administration, Facilities Management Division (DTS-87)

*SLSDC:* Office of Finance and Administration, Comptroller

*USCG:* Director of Finance and Procurement, Financial Management Division (G-CFM)

LISTING OF OA PRINTING CONTROL POINTS

*FHWA:* Operations and Services Division, Publications and Visual Aids Branch (HMS-24)

*FRA:* Office of Acquisition and Grants Services (RAD-30)

*FTA:* Associate Administrator for Administration, Administrative Services Division (TAD-12)

*MARAD:* Division of Management and Organization, Records Management (MAR-318.1)

*NHTSA:* Office of Administrative Operations, General Services Division (NAD-51)

*TASC:* Chief, Printing Services, Information Services (SVC-120)

*RSPA:* Office of Budget and Programs, Financial Manager (DMA-22)

*SLSDC:* Chief, Management Support Division, P.O. Box 520, Massena, NY, 13862

*USCG:* Office of Command, Control and Communications, Directives Branch (G-TPS-3).



**LISTING OF OA OFFICES AUTHORIZED TO CERTIFY  
LEASING OF SEDANS AND STATION WAGONS**

*FHWA:* Office of Management Systems, Operations and Services Division (HMS-20)

*FRA:* Office of Acquisition and Grants Services (RAD-30)

*FTA:* Associate Administrator for Administration, Office of Management Planning,  
Administrative Services Division (TAD-12)

*MARAD:* Associate Administrator for Administration, Office of Management Services,  
Division of Space and Management (MAR-313)

*NHTSA:* Associate Administrator for Administration, Office of Administrative Services,  
General Services Division (NAD-51)

*TASC:* Chief, Transportation Services, Facilities Services Center (SVC-110); for the IG,  
Director, Office of Financial and Administrative Services (JM-30)

*RSPA:* For Headquarters: Associate Administrator for Administration, Office of  
Administration, Administrative Services (DMA-11); for VNTSC: Office of  
Administration, Administrative Services Branch (DTS-872)

*SLSDC:* Office of Finance and Administration, Comptroller

*USCG:* Office of Engineering and Development, Program Execution and Management  
Division (G-ECV-4)



## **CHAPTER 1209**

### **CONTRACTOR QUALIFICATIONS**

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## **SUBCHAPTER 1209.1--RESPONSIBLE PROSPECTIVE CONTRACTORS**

### **1209.105 Procedures.**

#### **1209.105-2 Determinations and documentation.**

Form DOT F 4220.1, Determination of Prospective Contractor Responsibility, shall be used to make the determination and document that a contractor is/is not responsible.

## **SUBCHAPTER 1209.2--QUALIFICATION REQUIREMENTS**

### **1209.202 Policy.**

(a)(1) The authority of the head of the agency under (FAR) 48 CFR 9.202(a)(1) to establish a qualification requirement is delegated to the HCA. Prior to establishing a qualification requirement, a written justification prepared by the cognizant technical activity shall be submitted via the contracting officer and the OA's competition advocate to the HCA for approval.

(b) The cognizant technical office shall prepare a written waiver request when applicable. The waiver shall be submitted, via the contracting officer and the OA's competition advocate, to the HCA for approval.

(e) The authority of the head of the agency under (FAR) 48 CFR 9.202(e) to approve that a procurement does not need to be delayed in order to comply with (FAR) 48 CFR 9.202(a) is delegated to the HCA. A written justification shall be prepared by the cognizant technical activity and submitted via the contracting officer and the OA's competition advocate to the HCA for approval.

### **1209.206 Acquisitions subject to qualification requirements.**

#### **1209.206-1 General.**

(b) The authority of the agency head under (FAR) 48 CFR 9.206-1 to determine that an emergency exists that would preclude enforcement of an established qualification requirement is delegated to the HCA. A written justification shall be prepared by the cognizant technical activity and submitted via the contracting officer and the OA's competition advocate to the HCA for approval.

## **SUBCHAPTER 1209.3--FIRST ARTICLE TESTING AND APPROVAL**

### **1209.302 General.**

The procurement request initiator shall prepare a written statement addressing the factors enumerated in (FAR) 48 CFR 9.302 whenever first article testing and approval is required. The statement shall be forwarded with the procurement request to the contracting office.

## **SUBCHAPTER 1209.4--DEBARMENT, SUSPENSION, AND INELIGIBILITY**

### **1209.402 Policy.**

Debarment, suspension, and other actions which render a contractor ineligible to receive contract awards is a serious matter which deserves high level attention since there is an impact not only on DOT, but the entire Federal Government. The DOT procedures to implement the debarment and suspension requirements of (FAR) 48 CFR Subpart 9.4 are set forth in this subchapter.

### **1209.403 Definitions.**

- (a) The "debarring official" is the HCA.
- (b) The "suspending official" is the HCA.

### **1209.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.**

(c)(4) Records regarding debarment and suspension actions shall be maintained by the HCA for 3 years after a contractor has been excluded from procurement programs.

(c)(5) The HCA shall establish internal distribution requirements for the list entitled Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs (see EARL) to ensure compliance with (FAR) 48 CFR 9.404(c)(5). A copy of the OA distribution list shall be provided to the TASC, Information Services (SVC-120). SVC-120 shall then notify GSA of the DOT distribution requirements for the list. OAs shall update the list as necessary and provide an updated copy to SVC-120.

### **1209.405 Effect of listing.**

The authority of the agency head under (FAR) 48 CFR 9.405(a), (d)(2), and (d)(3), to determine that a bid or offer should be considered from a contractor included on the listing is delegated to the HCA.

#### **1209.405-1 Continuation of current contracts.**

The authority of the agency head under (FAR) 48 CFR 9.405-1(a) and (c) to determine whether to continue, extend or renew current contracts at the time the contractor was debarred, suspended, or proposed for debarment is delegated to the HCA.

#### **1209.405-2 Restrictions on subcontracting.**

The authority of the agency head under (FAR) 48 CFR 9.405-2(a) allowing contracting officers to consent to subcontracts with contractors debarred, suspended, or proposed for debarment is delegated to the HCA.

#### **1209.406 Debarment.**

##### **1209.406-1 General.**

(c) The authority of the agency head under (FAR) 48 CFR 9.406-1(c) to continue business dealings between the agency and the contractor that is debarred or proposed for debarment is delegated to the HCA. However, see TAM 1223.506(e) regarding waivers to debarment or suspension determinations for actions under (FAR) 48 CFR Subpart 23.5, Drug-Free Workplace.

##### **1209.406-3 Procedures.**

(a) *Investigation and referral.* The COCO shall promptly report a proposed debarment action directly to the HCA unless otherwise authorized by OA procedures. The report shall be in writing and coordinated with OA legal counsel before the report is signed by the COCO and sent to the HCA. The report shall contain the following information, if available:

(1) Name, address and telephone number for the point of contact for the activity making the report;

(2) Name and address of the contractor;

(3) Names and addresses of the members of the board, principal officers, partners, owners, and managers;

(4) Names and addresses of all known affiliates, subsidiaries, or parent firms, and the nature of the business relationship;

(5) For each contract affected by the conduct being reported--

(i) The contract number;

- (ii) Description of supplies or services;
  - (iii) The amount;
  - (iv) The percentage of completion;
  - (v) The amount paid to the contractor;
  - (vi) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom; and
  - (vii) The amount due to the contractor.
- (6) For any other contracts outstanding with the contractor or any of its affiliates--
- (i) The contractor number(s);
  - (ii) The amount(s);
  - (iii) The amounts paid to the contractor;
  - (iv) Whether the contract(s) is assigned under the Assignment of Claims Act and, if so, to whom; and
  - (v) The amount(s) due the contractor;
- (7) A complete summary of all pertinent evidence and the status of any legal proceedings involving the contractor;
- (8) An estimate of any damages sustained by the Government as a result of the contractor's action (explain how the estimate was calculated);
- (9) The comments and recommendations of the contracting officer and each higher level contracting review authority regarding--
- (i) Whether to suspend or debar the contractor;
  - (ii) Whether to apply limitations to the suspension or debarment;
  - (iii) The period of any recommended debarment; and
  - (iv) Whether to continue any current contracts with the contractor (explain why a recommendation regarding current contract is not included);

(10) When appropriate, as an enclosure to the report--

- (i) A copy or extracts of each pertinent contract;
- (ii) Witness statements or affidavits;
- (iii) Copies of investigative reports;
- (iv) Certified copies of indictments, judgments, and sentencing actions; and
- (v) Any other appropriate exhibits or documents.

(b) *Decisionmaking process.* After receipt of the COCO report, the HCA may request from interested parties (including the contractor if deemed appropriate) a meeting or additional supporting information to assist in the debarment decision.

(c) *Notice of proposal to debar.* The notice shall be in writing and coordinated with OA legal counsel prior to submission to the HCA. The HCA shall provide a copy of the dated, signed notice of the debarment action to the COCO.

(d) *Debarring official's decision.* When it is found that the contractor's submission raises a genuine dispute over facts material to the proposed debarment, the HCA may request the DOT Board of Contract Appeals (BCA) to conduct fact finding and provide a report containing the results of the fact finding.

(e) *Notice of debarring official's decision.* The HCA shall notify the COCO prior to deciding whether or not to impose debarment. The COCO shall be furnished the original of the signed HCA decision to include in the contract file. The HCA shall provide a copy of the decision to GSA in accordance with (FAR) 48 CFR 9.404(c). A copy of all notices to GSA shall be provided to the SPE within 2 working days after they are sent to GSA.

#### **1209.407 Suspension.**

##### **1209.407-1 General.**

(d) The authority of the agency head under (FAR) 48 CFR 9.407-1(d) to continue business dealings between the agency and the contractor that is debarred or proposed for debarment is delegated to the HCA. However, see TAM 1223.506(e) regarding waivers to debarment or suspension determinations for actions under (FAR) 48 CFR Subpart 23.5, Drug-Free Workplace.



### **1209.407-3 Procedures.**

(a) *Investigation and referral.* The COCO shall promptly report a proposed suspension action directly to the HCA unless otherwise authorized by OA procedures. The report shall be in writing and coordinated with OA legal counsel before the report is signed by the COCO and sent to the HCA. The report shall contain the information listed in TAM 1209.406-3.

(b) *Decisionmaking process.* After receipt of the COCO report, the HCA may request from interested parties (including the contractor if deemed appropriate) a meeting or additional supporting information to assist in the suspension decision.

(c) *Notice of suspension.* The notice shall be in writing and coordinated with OA legal counsel prior to submission to the HCA. The HCA shall provide a copy of the dated, signed notice of the suspension action to the COCO.

(d) *Suspending official's decision.* When it is found that the contractor's submission raises a genuine dispute over facts material to the proposed suspension, the HCA may request the DOTBCA to conduct fact finding and provide a report containing the results of the fact finding. The HCA shall notify the COCO prior to deciding whether or not to suspend. The COCO shall be furnished the original of the signed HCA decision, which shall be included in the contract file. The HCA shall provide a copy of the decision to GSA in accordance with (FAR) 48 CFR 9.404(c). A copy of all notices to GSA shall be provided to the SPE within 2 working days after they are sent to GSA.

### **1209.408 Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.**

(a)(2) When the offeror indicates the existence of an indictment, charge, conviction, or civil judgment, the contracting officer shall obtain from the offeror, the information deemed necessary concerning the issues and seek the advice of legal counsel on the affirmative statement(s). The HCA shall be notified orally of the facts and the contracting officer's proposed responsibility determination prior to proceeding with the contract award.

## **SUBCHAPTER 1209.5--ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST**

### **1209.503 Waiver.**

The authority of the agency head under (FAR) 48 CFR 9.503 to waive any general rule or procedure of this subpart by determining that its application in a particular situation would not be in the Government's interest is delegated to the HCA. This authority may not be redelegated below the HCA level.

**1209.504 Contracting officer responsibilities.**

(c) The authority of the HCA under (FAR) 48 CFR 9.504(c) to hear the contracting officer's recommendation regarding a course of action for resolving organizational and consultant conflicts of interest is retained by the HCA.

**1209.506 Procedures.**

(d)(3) The authority of the HCA under (FAR) 48 CFR 9.506(d)(3) to approve or direct the resolution of organizational and consultant conflicts of interest is retained by the HCA.

**TRANSPORTATION ACQUISITION MANUAL**

**CHAPTER 1210**

**MARKET RESEARCH**

**(RESERVED)**



## **CHAPTER 1211**

### **DESCRIBING AGENCY NEEDS**

#### **TABLE OF CONTENTS**

1211.002 Policy.

#### **SUBCHAPTER 1211.1--SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS**

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1211.104-70 Brand name or equal purchase descriptions.

#### **SUBCHAPTER 1211.5--LIQUIDATED DAMAGES**

1211.502 Policy.

#### **SUBCHAPTER 1211.6--PRIORITIES AND ALLOCATIONS**

1211.602 General.

1211.603 Procedures.

#### **APPENDICES**

Appendix A Listing of Ratings and Authorized Programs

#### **1211.002 Policy.**

(b) The use of the metric system in DOT acquisitions is encouraged. OA requiring offices are responsible for utilizing the metric system in specifications, statements of work, and other related procurement documents. Procurement requests shall stipulate requirements using the metric system of measurement in accordance with the OA's metric transition plan. DOT Order 1020.1 series, Department of Transportation Transition to the Metric System, provides the DOT policy and administrative procedures, including the offices responsible for specific functions pertaining to DOT's use and transition to the metric system.

#### **SUBCHAPTER 1211.1--SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS**

##### **1211.104 Items peculiar to one manufacturer.**

Brand name or equal purchase descriptions shall cite all brand name products known to be acceptable and of current manufacture.

(a) When the exception under (FAR) 48 CFR 11.104(a) is used, the following applies:

(i) Brand name or equal purchase descriptions shall specify each physical or functional characteristic of the product that is essential to the intended use. Failure to do so may result in a defective solicitation and the necessity to resolicit the requirement. (See (TAR) 48 CFR 1211.104-70.) Care must be taken to avoid specifying characteristics that cannot be shown to materially affect the intended end use and which unnecessarily restrict competition.

(ii) When describing essential characteristics, permissible tolerances should be indicated. Avoid specifying a characteristic (e.g., a specific dimension) of a brand name product unless it is essential to the Government's need. The contracting officer must be able to justify the requirement.

#### **1211.104-70 Brand name or equal purchase descriptions.**

(a) The use of brand name or equal purchase descriptions in solicitations is intended to promote competition by encouraging the offering of products that are equal in all material respects to brand name products cited in such descriptions. Identification by brand name does not indicate a preference for the products mentioned but indicates the quality and characteristics of products that will meet the Government's needs. Brand name or equal purchase descriptions shall not be used to acquire a particular product under the guise of competitive acquisition to the exclusion of other products that would meet the actual needs.

(b) Where a component of an item is described in the solicitation by a brand name or equal purchase description and the contracting officer determines that application of the provision at (TAR) 48 CFR 1252.211-70 would be impracticable, the requirement to include the entry described in (TAR) 48 CFR 1211.104-70(b) shall not apply. If the provision is included in the solicitation for other reasons, there also shall be included in the solicitation a listing to identify either the component parts (described by brand name or equal purchase descriptions) to which the provision applies or those to which it does not apply. This also applies to accessories related to an end item where a brand name or equal purchase description of the accessories is a part of the description of an end item.

(c) A written statement prepared and signed by the technical official responsible for the procurement request and concurred in writing by the contracting officer shall be included in the contract file to justify use of brand name products or brand name or equal purchase descriptions.

#### **SUBCHAPTER 1211.5--LIQUIDATED DAMAGES**

##### **1211.502 Policy.**

(d) The authority of the head of the agency to recommend to the Comptroller General that a contractor make a remission of the whole or any part of the liquidated damages for delay is delegated to the HCA.

## **SUBCHAPTER 1211.6--PRIORITIES AND ALLOCATIONS**

### **1211.602 General.**

(c) For the purposes of the Defense Priorities and Allocations System (DPAS), the following apply:

(1) The Commandant of the USCG is delegated the authority with power of redelegation by the Secretary of the Navy under Navy Instruction (NAVMAT 4830.17 series) to use the authority of the DPAS regulation (15 CFR 700) to acquire materials, products, and services in support of certified USCG national defense related programs. When using the DPAS authority, the USCG shall be governed by all of the policy directives and procedures issued by the Navy.

(3) All other OAs must submit their requests to the Department of Commerce at the address under TAM 1211.603(g)(3).

(d) The authority of the agency head under (FAR) 48 CFR 11.602(d) to ensure compliance with the DPAS by contracting activities within their agencies is delegated to the HCA.

### **1211.603 Procedures**

(e) and (f) Contracting officers shall comply with the following procedures when using the DPAS to support delegate agency certified programs.

(1) **Assignment of priority ratings by a delegate agency.** When authorized (see (TAR) 48 CFR 1211.602), contracting officers may assign priority ratings only to those contracts and orders placed with contractors to acquire products, materials, and services in support of that agency's national defense related certified programs. Generally, only a "DO" priority rating may be used on these contracts or orders. The "DX" priority rating may be used only on those contracts and orders placed in support of certified programs approved by the President as being of the highest national defense urgency.

(2) **Assignment of priority ratings by other DOT OAs.** If a non-delegate DOT OA issues a contract or order for the USCG or another Federal delegate agency, the OA, if requested by the delegate agency, may assign the appropriate "DO" or "DX" rating to the contractual document. The contracting officer of the non-delegate agency shall include a statement in the contractual document to indicate that the contract or order (or a specific item(s) under the contract or order) is being issued or procured for the delegate agency.

(3) **Authorized Programs.** Appendix A lists those DOD program categories certified for DPAS support. A complete list of certified programs is found in Schedule 1 to 15 CFR 700. The USCG certified programs generally include all USCG activities directly related to the national defense.

**(g) Special priorities assistance.**

(1) The USCG shall designate a point of contact at their Headquarters level to assist their contracting offices with requests for special priorities assistance (SPA).

(2) When the Department of the Navy (DON) funds a program of MARAD, contracting officers for MARAD should obtain SPA from the DON in accordance with MARAD's written procedures.

(3) If contracting officers cannot resolve requests for SPA, the requests shall be forwarded to the appropriate office at Headquarters for assistance and further action. If the Headquarters office cannot provide assistance, Headquarters may submit the original and two copies of Form ITA-999, Request for Special Priorities Assistance, via the appropriate channels, to the DOC, Office of Industrial Resource Administration (OIRA), Room 3878, Washington, DC, 20230, Attention: DPAS. The form shall be thoroughly documented with all actions taken in attempting to resolve the request at the field and Headquarters levels. The form may be obtained from the OIRA or the Defense Contract Management Command office nearest the contracting office. Questions concerning DPAS may be directed to the OIRA by telephoning (202) 482-3634.

**(h) Violations of the DPAS.** Violations of the DPAS by a contractor or subcontractor, at any tier, shall be reported to the DOC in accordance with OA procedures.



## APPENDIX A

### LISTING OF RATINGS AND AUTHORIZED PROGRAMS

<u>Ratings</u>	<u>Authorized Program</u>
A-1	Aircraft
A-2	Missiles
A-3	Ships
A-4	Tanks-Automotive
A-5	Weapons
A-6	Ammunition
A-7	Electronic and Communications Equipment
B-1	Military Building Supplies
B-8	Production Equipment (for Defense Contractor's Accounts)
B-9	Government-Owned Production Equipment
C-2	Department of Defense (DOD) Construction
C-3	Maintenance, Repair, and Operating Supplies for DOD Facilities
C-8	Controlled Materials for Defense Industrial Supply Center
C-9	Miscellaneous (e.g., construction equipment, medical and dental supplies and equipment) and all others not identified to any other program



**TRANSPORTATION ACQUISITION MANUAL**

**CHAPTER 1212**

**ACQUISITION OF COMMERCIAL ITEMS**

**(RESERVED)**



## **CHAPTER 1213**

### **SIMPLIFIED ACQUISITION PROCEDURES**

#### **SUBCHAPTER 1213.1--PROCEDURES.**

1213.101            General.

#### **SUBCHAPTER 1213.3--SIMPLIFIED ACQUISITION METHODS**

1213.302            Purchase orders.  
1213.302-3        Obtaining contractor acceptance and modifying purchase orders.  
1213.302-5        Clauses.  
1213.303           Blanket purchase agreements (BPAs).  
1213.303-3        Preparation of BPAs.  
1213.303-370      Modification of BPAs  
1213.303-6        Review procedures.  
1213.303-670      Review responsibility.  
1213.305           Imprest funds and third party drafts.  
1213.305-2        Agency responsibilities.  
1213.305-3        Conditions for use.  
1213.305-4        Procedures.  
1213.305-70       OA imprest funds.  
1213.306           SF44, Purchase Order--Invoice--Voucher.

#### **SUBCHAPTER 1213.70--DEPARTMENT OF TRANSPORTATION PURCHASE/CREDIT CARD PROGRAM**

1213.7000           General.

#### **SUBCHAPTER 1213.71--DEPARTMENT OF TRANSPORTATION PROCEDURES FOR ACQUIRING TRAINING SERVICES**

1213.7100           General.

#### **APPENDICES**

Appendix A        Purchase Order Terms and Conditions--DOT.  
Appendix B        Department of Transportation Purchase/Credit Card Program.  
Appendix C        Department of Transportation Procedures for Acquiring Training Services.

## **SUBCHAPTER 1213.1--PROCEDURES.**

### **1213.101 General.**

Except for acquisitions of \$2,500 or less, Form DOT F 4230.1, Simplified Acquisition Summary and DOT F 4230.1a, may be used to document purchases covered by (FAR) 48 CFR Part 13 and placed in the file.

## **SUBCHAPTER 1213.3--SIMPLIFIED ACQUISITION METHODS**

### **1213.302 Purchase orders.**

#### **1213.302-3 Obtaining contractor acceptance and modifying purchase orders.**

(b) The SF 30 is to be used to modify a purchase order.

### **1213.302-5 Clauses.**

(d) Appendix A supplements the purchase order terms and conditions (Optional Form 347 Back) generally applicable to simplified acquisitions. Appendix A may be used as an attachment to OFs 347 and 348 unless an OA equivalent supplemental clause list has been authorized for use by the COCO.

### **1213.303 Blanket purchase agreements (BPAs).**

#### **1213.303-3 Preparation of BPAs.**

#### **1213.303-370 Modification of a BPA.**

The SF-30 shall be used to modify a BPA.

#### **1213.303-6 Review procedures.**

#### **1213.303-670 Review responsibility.**

(a) When the authorized callers under the BPA are not within the OA which issued the BPA, the contracting officer or the designated representative of the contracting officer within the OA using the BPA is responsible for the review.

### **1213.305 Imprest funds and third party drafts.**

#### **1213.305-2 Agency responsibilities.**

(c) Guidance governing the use and administration of imprest funds within DOT is contained in DOT Order 2770.13 series, Imprest Fund Manual, and the Office of Financial Management (B-30) memoranda dated September 19, 1991 (see EARL) and October 21, 1991 (see EARL), which increased the limitation for single, routine imprest fund transactions to \$500. Alternative measures, such as the GSA Government Travel Charge Card or travelers checks for travel advances and expenses and the Governmentwide commercial credit card or third party drafts for making simplified acquisitions should be used to the maximum extent possible to minimize the number of imprest fund transactions.

HCA's (see EARL) shall establish procedures for designation of personnel authorized to approve requisitions and make purchases using imprest funds. HCA's (see EARL) may require that only contracting officers may approve requisitions using imprest funds.

#### **1213.305-3 Conditions for use.**

(a) The authority of the agency head under (FAR) 48 CFR 13.403(a) to approve the imprest fund transaction limit is delegated to the Director of the Office of Financial Management (B-30).

#### **1213.305-4 Procedures.**

(e) The individual making an approved purchase from the imprest fund shall be responsible for compliance with the documentation requirements of (FAR) 48 CFR 13.404(f) and DOT Order 2770.13 series. The individual having acquisition authority to approve purchases from the imprest fund shall be responsible for checking the authorized purchase requisition for compliance with the internal control requirements mandated by DOT Order 2770.13 series.

#### **1213.305-70 OA imprest funds.**

OAs shall obtain the approval of the Office of Financial Management (B-30) prior to establishing an imprest fund.

### **1213.306 SF44, Purchase Order--Invoice--Voucher.**

(a)(1) Fuel and lubricant purchases for USCG cutters and aircraft are permitted up to a limitation of \$25,000.

(d) OAs are responsible for establishing procedures to control the use of SF 44s and to account for all purchases made using the form, including:

(1) Maintenance of a list of designated individuals authorized to make purchase using the form;

(2) Controls for issuance of the form to authorized individuals; and

(3) Review of purchase transactions using the form to assure compliance with authorized procedures.

#### **SUBCHAPTER 1213.70--DEPARTMENT OF TRANSPORTATION PURCHASE/CREDIT CARD PROGRAM**

##### **1213.7000 General.**

DOT policies and procedures for the use of the DOT Purchase/Credit Card Program are contained in Appendix B.

#### **SUBCHAPTER 1213.71--DEPARTMENT OF TRANSPORTATION PROCEDURES FOR ACQUIRING TRAINING SERVICES**

##### **1213.7100 General.**

DOT policies and procedures for acquiring training services using simplified acquisition procedures under a delegation of procurement authority are contained in Appendix C.



**PURCHASE ORDER TERMS AND CONDITIONS--DOT**

The following FAR provisions/clauses supplement the purchase order terms and conditions (Optional Form 347). An asterisk (\*) indicates the provision/clause must be incorporated in full text; all others may be incorporated by reference in accordance with FAR 52.252-1. Upon request, the contracting Officer will make their full text available.

FAR 52.203-3	Gratuities (APR 84)
FAR 52.242-15	Stop-Work Order (AUG 89)
FAR 52.219-1	Small Business Program Representations (JAN 97)
FAR 52.222-3	Convict Labor (AUG 96)
FAR 52.232-1	Payments (APR 84)
FAR 52.232-8	Discounts for Prompt Payment (MAY 97)
FAR 52.232-25	Prompt Payment (MAY 97)
FAR 52.232-33	Mandatory Information for Electronic Funds Transfer Payment (AUG 96)
FAR 52.232-34	Optional Information for Electronic Funds Transfer Payment (AUG 96)
FAR 52.233-1	Disputes (OCT 95)
FAR 52.233-3	Protest after Award (AUG 96)
FAR 52.243-1	Changes-Fixed Price (AUG 87)

The following clauses marked with an "X" also apply to this solicitation/ contract:

**OPTIONS**

<input type="checkbox"/>	FAR 52.217-3	Evaluation Exclusive of Options (APR 84)
<input type="checkbox"/>	FAR 52.217-4	Evaluation of Options Exercised at Time of Contract Award (JUN 88)
<input type="checkbox"/>	FAR 52.217-5	Evaluation of Options (JUL 90)
<input type="checkbox"/>	FAR 52.217-6	Option for Increased Quantity (MAR 89)
<input type="checkbox"/>	FAR 52.217-8	Option to Extend Services (AUG 89)
<input type="checkbox"/>	FAR 52.217-9	Option to Extend the Term of the Contract (MAR 89)

**SERVICES**

<input type="checkbox"/>	FAR 52.222-41	Service Contract Act of 1965, as Amended (MAY 89)
* <input type="checkbox"/>	FAR 52.222-42	Statement of Equivalent Rates for Federal Hires (MAY 89)
<input type="checkbox"/>	FAR 52.222-43	Fair Labor Standards Act and Service Contract Act- Price Adjustment (MAY 89)
<input type="checkbox"/>	FAR 52.222-47	SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA) (MAY 89)

## PURCHASE ORDER TERMS AND CONDITIONS--DOT

### SERVICES (cont.)

- \* \_\_\_ FAR 52.222-48 Exemption from Application of Service Contract Act Provisions for Contracts for Maintenance, Calibration, and/or Repair of Certain Information Technology, Scientific and Medical and/or Office and Business Equipment - Contractor Certification (AUG 96)
- \_\_\_ FAR 52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form) (APR 84)

### SUPPLIES

- \* \_\_\_ FAR 52.211-16 Variation in Quantity (APR 84)
- \_\_\_ FAR 52.225-3 Buy American Act-Supplies (JAN 94)
- \_\_\_ FAR 52.246-16 Responsibility for Supplies (APR 84)
- \_\_\_ FAR 52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form) (APR 84)

### OTHER CLAUSES

- \_\_\_ FAR 52.204-3 Taxpayer Identification Number (MAR 94)  
TIN: \_\_\_\_\_ (Offeror provides)
- \_\_\_ FAR 52.204-4 Printing/Copying Double Sided on Recycled Paper (JUN 96)
- \_\_\_ FAR 52.207-4 Economic Purchase Quantity--Supplies (non GSA/ FSS) (AUG 87)
- \_\_\_ FAR 52.207-5 Option to Purchase Equipment (FEB 95)
- \_\_\_ FAR 52.208-4 Vehicle Lease Payments (APR 84)
- \_\_\_ FAR 52.208-5 Condition of Leased Vehicles (APR 84)
- \_\_\_ FAR 52.208-6 Marking of Leased Vehicles (APR 84)
- \_\_\_ FAR 52.208-7 Tagging of Leased Vehicles (MAY 86)
- \_\_\_ FAR 52.213-1 Fast Payment Procedure (AUG 88)
- \_\_\_ FAR 52.213-2 Invoices (APR 84)
- \_\_\_ FAR 52.213-3 Notice to Supplier (APR 84)
- \_\_\_ FAR 52.222-20 Walsh-Healey Public Contracts Act (DEC 96)
- \_\_\_ FAR 52.222-21 Certification of Nonsegregated Facilities (APR 84)
- \_\_\_ FAR 52.222-26 Equal Opportunity (APR 84)
- \_\_\_ FAR 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 84)
- \_\_\_ FAR 52.222-36 Affirmative Action for Handicapped Workers (APR 84)
- \_\_\_ FAR 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 88)
- \* \_\_\_ FAR 52.223-5 Pollution Prevention and Right-to-Know Information (MAR 97)
- \_\_\_ FAR 52.223-6 Drug Free Workplace (JAN 97)
- \_\_\_ FAR 52.232-16 Progress Payments (JUL 91)

_____	FAR 52.232-18	Availability of Funds (APR 84)
_____	FAR 52.245-2	Government Property (Fixed-Price Contracts) (DEC 89)
_____	FAR 52.245-4	Government-Furnished Property (Short Form) (APR 84)
_____	FAR 52.246-1	Contractor Inspection Requirements (APR 84)
_____	FAR 52.247-29	F.O.B. Origin (JUN 88)
_____	FAR 52.247-34	F.O.B. Destination (NOV 91)
_____	FAR 52.247-35	F.O.B. Destination Within Consignee's Premises (APR 84)
_____	FAR 52.249-8	Default (Fixed-Price Supply and Service) (APR 84)

## DEPARTMENT OF TRANSPORTATION PURCHASE/CREDIT CARD PROGRAM

### I. GENERAL.

These policies and procedures replace the Office of Financial Management (M-80) Interim Small Purchase Credit Card Policy memorandum issued November 7, 1990.

### II. APPLICABILITY.

These policies and procedures apply to all DOT operating administrations (OA). OAs may authorize designated field offices to develop their own internal procedures to implement the DOT Purchase/Credit Card Program.

### III. DEFINITIONS.

The definitions set forth below supplement those set forth in the General Services Administration (GSA) Governmentwide Commercial Credit Card Service (GCCCS) contract. The current GCCCS contract is effective through November 1998, is available through TASC Acquisition Services. The terms "small purchases" and "small purchase procedures" used throughout Attachment 1 mean "simplified acquisitions" and "simplified acquisition procedures."

A. "Agency/Organization Program Coordinator" (also referred to as Contracting Officer's Technical Representative) means an individual designated by the ordering agency/organization to perform contract administration within the limits of delegated authority. The individual shall have overall responsibility for the Purchase/Credit Card Program within their bureau, agency/organization or region and may determine who the approving officials or cardholders will be.

B. "Approving Official" means a Government employee(s) within the OA who has a number of cardholders under his/her purview and determines that cardholders' purchases are made within applicable regulations, policies, and procedures.

C. "Approving Official Report" means a monthly report sent by the card issuing bank to each approving official summarizing the purchase and credits of each cardholder under the approving official's purview.

D. "Card Issuing Bank" means the bank which issues cards to cardholders and submits monthly statements to cardholders, approving officials, and finance offices detailing amounts of purchases and credits made by cardholders.

E. "Cardholder" means the individual Government employee within the OA who is a warranted contracting officer or to whom a written delegation of procurement authority (DPA) has been issued by the cognizant Chief of the Contracting Office (COCO) or designee granting the use of the purchase/credit card.

F. "Cardholder Statement" means a monthly statement sent by the card issuing bank to each cardholder itemizing all purchase and credit transactions made within the established billing period.

G. "Delegation of Procurement Authority (DPA)" means the authorizing document transmitted by the COCO, or a designee appointed by the COCO with appropriate procurement authority, granting specific procurement authority to the individual Government employee for use of the purchase/credit card. The DPA may be in the form of an e-mail. Use of this method does not change any of the existing FAR, TAR, or TAM requirements, including the training, recordkeeping, and monitoring requirements.

H. "Disputes Contact" means a Government employee(s) within the OA who is responsible for resolving disputed purchases, credits for sales tax refunds, and credits for billing errors with the card issuing bank.

I. "DOT Contracting Officer's Technical Representative (COTR)" (also referred to as Agency Program Coordinator) means the Government employee designated to perform contract administration functions within the limits of delegated authority and who serves as the liaison between the card issuing bank and the OA. The DOT COTR is located in the Transportation Administrative Service Center (TASC).

J. "Finance Office Contact" means a Government employee(s) within the OA who has the responsibility for responding to payment inquiries from the COTRs, card issuing bank, approving officials and cardholders.

K. "International Merchant Purchase Authorization Card (I.M.P.A.C.)" means the current name of the GCCCS Program card. I.M.P.A.C. is the registered trademark of the Rocky Mountain Bankcard system, the current GSA contractor providing purchase/credit card services to the Federal Government.

L. "Monthly Cardholder Purchase Limit" means the spending limit imposed on a cardholder's cumulative purchases in a given month.

M. "Monthly Office Limit" means the monthly spending limit imposed on each approving official's account.

N. "Nonexpendable Personal Property" means property which has a normal life expectancy of more than one year, has continuing use as a self-contained unit, is not consumed in use, does not

lose its identity when put to use, or does not ordinarily become a non-severable component of other property.

O. Organization Program Coordinator means the Government employee within the OA who will perform administration of the technical requirements of the Purchase/ Credit Card Program within the OA.

Q. "Single Purchase Limit" means the spending limit imposed on a cardholder for individual purchase/credit card transactions.

#### **IV. PROGRAM STRUCTURE.**

The design of the DOT Purchase/Credit Card Program is based on a multiple level system developed to accommodate varying organizational structures within Federal Government agencies. It provides for reporting of card purchases to different levels, depending on each agency's requirements. The program structure is categorized by "Level Numbers," with each level identifying a specific area within the organization's structure. The various levels have been established to provide a solid system of checks, balances and audit controls from the lowest to the highest level within each organization.

A. "Level 1" represents the U.S. Government as a whole. This number distinguishes the GCCCS Program from non-Government commercial credit card programs or services operated within the VISA system. The unique prefix number, which identifies the U.S. Government under the GCCCS Program, is "4716." This number will always be the first four numbers on cards issued under the GCCCS Program. Authorization and processing controls, which differ from personal credit card accounts, have been established for accounts under the GCCCS Program.

B. "Level 2" identifies the participating Executive Office, Department, independent agency, or commission. This two-digit code generally corresponds to the Agency Local Code use by the U.S. Department of Treasury. The Level 2 number which identifies DOT is "69."

C. "Level 3" is a two-digit code which identifies the next major organizational sub-division within DOT. DOT Level 3 numbers identify the OAs within DOT.

D. "Level 4" generally identifies a participating region, office, sub-unit or component unit located within the Level 3. A four-digit code is assigned to identify each Level 4 participant.

E. "Level 5" is generally the level at which approving officials are established. The Level 5 number or code is generally determined by the OA's finance office.

F. "Level 6" is the cardholder, and the only level to which a purchase/credit card is issued.

## V. OA RESPONSIBILITIES.

### A. Internal Procedures. Each OA shall:

1. Develop written internal Purchase/Credit Card Program procedures within the scope of the applicable GSA contract. The minimum elements to be addressed are set forth therein;
2. Ensure that all prospective approving officials understand and comply with the validation requirements.
3. Submit approved purchase/credit card forms to the card issuing bank;
4. Submit changes to cardholder single purchase or monthly purchase limits, or approving official monthly office limits to the card issuing bank;
5. Submit account cancellations to the card issuing bank; and
6. Coordinate the card reissuance report with approving officials and inform the card issuing bank which purchase/credit cards should be reissued. (Note: Renewal cards will not be reissued without prior approval.)

### B. OA Organization Program Coordinator. Each OA shall:

1. Appoint an Organization Program Coordinator, generally located within the Headquarters office, who will have overall responsibility for administering the Purchase/Credit Card Program within the OA.
2. Provide the COTR name, work address, routing symbol, room and telephone numbers to the Agency Program Coordinator (TASC). The OA Organization Program Coordinator will be the OA's central point of contact for GCCCS Program related issues.

C. Training. Each OA shall develop training which will ensure that potential approving officials and cardholders fully understand their responsibilities regarding procurement regulations, finance requirements and internal procedures under the Purchase/Credit Card Program. The OA shall ensure that all prospective cardholders understand and comply with the monthly statement validation requirements, as set forth in the applicable GSA GCCCS Program contract. Purchase/credit cards shall not be issued to potential cardholders until they have received training and DPAs. OAs may contact the Agency Program Coordinator in SVC-180 for assistance and information regarding existing training videos and manuals.

1. *Procurement Training.* Procurement training shall, at a minimum, address the requirements of Federal Acquisition Regulation (FAR) Part 3 (Improper Business Practices and Personal Conflicts of Interest), Part 8 (Required Sources of Supplies and Services), Part 13

(Simplified Acquisition Procedures), Part 22 (Acquisition of Labor Laws to Government Acquisitions), Part 25 (Foreign Acquisition), the corresponding Transportation Acquisition Regulation (TAR); Transportation Acquisition Manual (TAM); the applicable GSA contract; and internal OA procedures.

2. *Finance Training.* Finance training shall, at a minimum, address the requirements for safekeeping of purchase/credit cards and account numbers, retention of receipts for charges and credits for purchases, returns and disputed items, record keeping for purchase/credit card purchases, timely validation of monthly statements of account, summarization of accounting data on monthly statements of account, procedures to follow for account set-up, account changes and cancellation, disputes resolution, and procedures to follow if a purchase/ credit card is lost or stolen.

3. *Property Control Training.* OAs are encouraged to include property management and control training to address the requirements for notifying the appropriate officials (i.e., property manager, property officer, property accountable officer) of delivery of non-expendable personal property in order to assure proper handling and inventory control of items ordered using the purchase/credit card.

D. Delivery Order Issuance. To begin participation in the GCCCS Program, each OA or designated field office must submit a delivery order (D.O.) to the card issuing bank requesting participation in the program. A copy of the developed internal procedures must be forwarded as an attachment to the D.O. The D.O. may be prepared on an OF 347, Order for Supplies or Services, or may be submitted in letter format. At a minimum, the D.O. should provide names and telephone numbers for the OA Organization Program Coordinator, the Finance Office Contact, and the Disputes Office Contact. OAs may assign a different individual for each of these contact points, may elect to assign one individual for each of the contact points, or may assign more than one individual to each of the contact points.

E. Account Set-Up. The card issuing bank will provide the cardholder and approving official with account information in accordance with the applicable GSA contract.

1. *Qualifications.* OAs are responsible for determining the professional responsibility of prospective cardholders and approving officials.

2. *Account Set-Up Forms.* Set-up forms completed by prospective approving officials and cardholders should be sent to the OA Organization Program Coordinator or designee, for review. The OA Organization Program Coordinator or designee, will review each approving official and cardholder application for accuracy and completeness. The prospective cardholder set-up form should be approved by the cognizant approving official, who shall forward the form to the card issuing bank for processing and issuance of the purchase/credit card.



3. *Purchase Limitations.* The purchase limitations which are established under the GCCCS Program should generally be based upon budgetary constraints and actual need, as follows:

a. *Single Purchase Limit.* The cognizant approving official will determine the single purchase limit when initiating each cardholder's account set-up form. The cardholder's single purchase limit must be supported with a properly approved DPA in an amount equal to or greater than the established single purchase limit. Single purchase limit codes are reflected on the reverse of the cardholder account set-up forms.

(1) A single purchase/credit card transaction may consist of the purchase of a number of individual items, the sum of which (including any shipping costs) may not exceed the single transaction purchase limit. A requirement which would exceed an individual cardholder's single transaction purchase limitation shall not be divided or "split" into two or more transactions to stay under the single transaction purchase limitation. OAs are encouraged to establish realistic single transaction purchase limits which represent the dollar amount an individual cardholder's transactions will generally fall within. The single transaction purchase limit for non-warranted personnel generally may not exceed \$2,500.

(2) Except for credit card purchases of training services which are limited to the micro-purchase threshold of \$2,500 (FAR 2.101), warranted contracting officers may be authorized single transaction purchase limits up to the simplified acquisition threshold limit as defined in (FAR) 48 CFR Part 13.

b. *Monthly Cardholder Purchase Limit.* The cognizant approving official will determine the monthly purchase limit for each cardholder under his or her purview.

c. *Monthly Office Limit.* The monthly office limit is the total monthly limit established for each approving official's account by the funds administrator/accounting certification official. This figure is generally computed by combining the monthly purchase limits of all cardholders under the approving official's purview. It should be noted that whenever a cardholder's monthly purchase limit is increased, the corresponding approving official's monthly office limit must also be increased accordingly. Failure to do so may result in purchase/credit card transaction delays.

4. *Finance office reports.* The finance office will receive monthly finance office reports from the card issuing bank which will have summary totals of all of the purchases and credits of approving officials under their cognizance. The finance office report generally represents the invoice from the bank.

## **VI. INDIVIDUAL RESPONSIBILITIES.**

The following are some examples of GCCCS Program official responsibilities:

A. OA. The OA is responsible for the overall operation of the Purchase/Credit Card Program within their organization and may delegate the responsibilities delineated below to the OA COTR or other designated official(s) as they determine appropriate. These responsibilities include:

1. Taking appropriate action to inform organizations within the OA that the DOT Purchase/Credit Card Program is available for use;
2. Distributing account set-up forms to prospective cardholders and approving officials;
3. Coordinating training for cardholders and approving officials;
4. Approving applications for cardholders and approving officials;
5. Approving changes in authorized merchant codes, single and monthly cardholder purchase limits, single and monthly office spending limits;
6. Cancelling purchase/credit card privileges of cardholders; and
7. Receiving monthly management reports from the card issuing bank.
8. Completing the DOT F 4220.11 (Contract Information System Data Input Form) for purchases over \$25,000 and forwarding it to the cognizant contracting office for input into the federal procurement data system.

B. OA Organization Program Coordinator. The OA Organization Program Coordinator or designee will generally perform all technical aspects of contract administration and will be the primary liaison between the finance office, disputes contact, and the card issuing bank. The OA Organization Program Coordinator or designee will have responsibility for:

1. Ensuring each designated cardholder receives training and a DPA properly approved by the COCO or designee; and
2. Making the tax exempt number available to cardholders and approving officials.
3. Ensuring proper destruction of any information management reports related to the program.

C. Finance Office Contact. The finance office contact is generally responsible for payment of all authorized and certified purchases to the card issuing bank. Finance offices will receive reports from the card issuing bank which will have summary totals of all of the purchases and credits of approving officials under their cognizance. The finance office report generally represents the invoice from the bank. The finance office will have responsibility for:

1. Certifying for payment all authorized card transactions;
2. Reviewing the approving official statements along with the accompanying cardholder's statements to verify that the transactions were authorized and that goods or services were received and accepted or returned;
3. Reconciling the cardholder's statements to summary totals on the approving official's statement, including annotating and resolving any discrepancies with the approving official prior to releasing payment; and
4. Making payment to the card issuing bank in accordance with the Prompt Payment Act. Accordingly, if finance offices receive late approving official statements, interest penalties may be incurred.

D. Approving Official. The approving official will generally be responsible for nominating potential cardholders within his or her purview and for administering the Purchase/Credit Card Program for those cardholders. The following are some examples of approving official responsibilities:

1. Preparing and submitting cardholder and approving official account set-up forms, and maintaining forms and other required information to the OA Organization Program Coordinator or designee;
2. Determining the appropriate dollar amount of single transaction purchase limits for each cardholder under his/her purview;
3. Ensuring that all cardholders validate account purchases and credits itemized on cardholder statements within seven calendar days after receipt or in the absence (planned or otherwise) of the cardholders, reconciling the cardholder's monthly statements within seven days after receipt;
4. Verifying that all purchases by cardholders were authorized purchases;
5. Ensuring the proper accounting classification data and any disputed items are clearly documented;
6. Promptly processing for payment all cardholder's monthly statements of account;
7. Initiating appropriate action if a cardholder uses a purchase/credit card in an unauthorized manner, including cancellation of the cardholder's account and disciplinary action if appropriate; and

8. Confirming written notification to the card issuing bank and OA within five working days following the loss or theft of a purchase/credit card.

E. Cardholder. The cardholder is responsible for executing purchase/credit card transactions within the limits of his/her DPA; complying with the FAR, TAR, TAM, the applicable GSA contract, and internal OA guidance; and verifying that:

1. Purchases and credits itemized on his or her monthly cardholder statement of account are only for goods or services received or returned;

2. Sales tax has not been charged;

3. Merchants have not charged the account prior to the date of shipment; and

4. Merchants have not passed on their VISA interchange fees to the Government.

Care shall be exercised by all Purchase/Credit Card Program officials to safeguard cardholder account information when disposing of management or financial reports received from the card issuing bank.

## **VII. GENERAL GCCCS PROGRAM INFORMATION.**

A. Receipt of the Purchase/Credit Card. The card issuing bank will send the card directly to the cardholder at the work address specified on the set-up form. Upon receipt of the purchase/credit card, the cardholder must immediately sign the acknowledgement form and return it to the card issuing bank. Failure to do so will result in generation of the Card Receipt Acknowledgement Outstanding Report to the cognizant approving official.

B. Purchase/Credit Card Appearance. The I.M.P.A.C. card is easily discernible in its appearance from personal commercial credit cards.

C. Use of the Purchase/Credit Card.

1. The purchase/credit card may be used for simplified acquisitions as defined in FAR Part 13 and for purchases from participating contractors under the applicable GSA contract.

2. Use of the purchase/credit card shall be restricted to Government personnel who have received proper training in the use of the card and who have been delegated purchasing authority (i.e., warranted contracting officers and employees who have received a written DPA from the cognizant COCO or designee). Furthermore, except as authorized by the applicable GSA contract, the only person authorized to use the card is the person whose name appears on the purchase/ credit card. Permitting someone else to use an individual cardholder's purchase/credit card, even within the same program office or activity, may result in disciplinary action and/or

cancellation of cardholder privileges. Additionally, the purchase/credit card shall not be issued to or used by contractor personnel under any circumstances.

3. Cardholders should always notify the vendor/contractor not to charge the card for the purchases until shipment is made and that purchases are for official U.S. Government purposes and, therefore, are tax exempt.

4. Cardholders shall review all potential acquisitions, including imprest fund transactions, to determine whether the procurement can be accomplished through the use of the GCCCS Program. If the vendor/contractor accepts the purchase/credit card, the purchase shall be made in accordance with these procedures.

D. Limitations of Purchase/Credit Card Use. Limitations for use of the purchase/credit card are as follows:

1. *Prohibited Use of the Purchase/Credit Card.* In addition to the limitations on the use of the GCCCS Program purchase/credit card set forth in the applicable GSA contract, the purchase/credit card shall not be used for the following:

- a. Personal purchases or as identification when cashing a personal check; and
- b. Open market purchase of items available from GSA FSS mandatory sources.

2. *Regulated Purchases.* Each OA must determine if they will permit use of the purchase/credit card for circumstances which have been designated as regulated purchases in the applicable GSA contract. If regulated purchases are authorized in accordance with OA procedures, the required level of approval within the OA must be specified, and OA procedures must specifically address the situations when the purchase of regulated items are permitted.

3. *GAO Special Interest Items.* GAO decisions surrounding the concept of the "availability of appropriations" are often stated in terms of whether appropriated funds are or are not "legally available" for a given expenditure. Restrictions on the purposes for which appropriated funds may be used come from a variety of sources, including the Constitution, DOT Appropriations Acts, and decisions of the Comptroller General and his predecessor, the Comptroller of the Treasury. OAs are encouraged to review the GAO publication entitled Principles of Federal Appropriations Law (Volume 1 (see EARL), Volume 2 (see EARL), and Volume 3 (see EARL)) and provide coverage of the above areas when developing its Purchase/Credit Card Program procedures. A number of the more common restrictions which "accounting officers of the Government" have had frequent occasion to consider and apply include:

- a. Payment of attorney's fees;
- b. Purchase of entertainment and recreation;

c. Payment of personal membership fees; and

d. Payment of personal expense items such as gifts for employees, entry fees for contests, medals or trophies, and coffee/donuts for conferences or meetings.

E. Fund Control.

1. Each OA shall include in its internal controls the method it will use to control funds within the purchase/credit card program. The internal controls must effectively ensure that funds are not expended in excess of the appropriation.

2. The use of an individual Purchase Request (PR) for each purchase/credit card transaction is optional; however, all purchase transactions made by a cardholder shall be supported by a certification of funds availability and an accountable document (e.g., a sales slip for over-the-counter purchases and a telephone log for telephone purchases).

3. Funds may be controlled in the finance office or by the approving official. The following approaches are provided as suggestions and are not intended to be the only means of funds control to be used in the purchase/credit card program:

a. The monthly limit for each approving official may be used by the finance office to commit at the beginning of each monthly card billing cycle. When approving officials forward their monthly statements, the amount of the recorded commitment will be reversed and expenditures will be recorded for the net amount of purchases made for the month.

b. The approving official may exercise fund control by establishing annual, quarterly or monthly commitment accounts for each cardholder under his/her purview, from which the cardholder could draw down when making purchases with the card.

4. Because PRs or other funding documents are not generally distributed to finance offices for obligation purposes under the GCCCS Program, OAs need to pay special attention to end of fiscal year purchases to ensure funds are obligated timely to preclude the loss of funds.

F. Validation of Purchases. Individual cardholders, approving officials and finance offices are responsible for verifying, validating and certifying for payment all authorized card purchases in accordance with paragraph VI. above and OA implementing procedures.

G. Billing Disputes. Cardholders are responsible for disputing any erroneous charges appearing on the monthly cardholder statement of account. Items returned to vendors and charges by a merchant before the date of shipment are examples of disputable items.

1. Cardholders must send the card issuing bank a completed Cardholder Statement of Questioned Item Form for disputed items within seven calendar days after receipt of the monthly

statement. This form will be provided by the card issuing bank. A copy of the form must also be provided with the cardholder's statement to the cognizant approving official.

2. An example of an item which cannot be disputed with the card issuing bank is sales tax. Since purchases made with a U.S. Government purchase/credit card are tax free, the cardholder must contact the vendor and request a credit for the amount of sales tax charged, if the disputed charge involves sales tax erroneously charged to the purchase. Cardholders may provide the merchant with the card issuing bank's toll free number on the back of the purchase/credit card, if the merchant questions the sales tax exemption. Currently, all states have submitted letters acknowledging that the Government purchase/credit card qualifies for sales tax exemption.

H. Costs of the Program. The card issuing bank, in accordance with the applicable GSA contract, receives payment for providing services from three sources:

1. *Late payments*. If an OA makes a late payment to the card issuing bank, interest will be paid for the number of days late, computed at the Renegotiation Board Interest Rate.

2. *VISA Interchange Fees*. The card issuing bank receives payment from VISA for interchange fees, which are paid by vendors which accept Government purchase/credit cards for purchases. The interchange fees compensate the card merchant bank, card issuing bank, and VISA, which comprise the purchase/credit card network.

I. Lost or Stolen Purchase/Credit Cards. The minimum notification requirements are set forth in the applicable GSA contract.

1. Failure to notify the card issuing bank immediately of the loss or theft could result in the OA being liable for subsequent purchases charged to the card.

2. A cardholder who reports more than one incident of loss or theft within a 12-month period will require authorization from the OA Organization Program Coordinator or designee in order to have another card issued.

J. Refunds. For OAs paying an administrative fee, the card issuing bank will refund a percentage of previously paid fees, once certain purchase thresholds are achieved. These refunds will be credited back to the appropriation charged when the administration fees were originally paid.

K. Purchase/Credit Card Cancellations. The OA Organization Program Coordinator or designee, will generally have the responsibility for cancelling purchase/credit cards due to retirement, resignation, death, or termination of employment in accordance with established OA purchase card/credit card procedures. The procedures should provide for prompt notification of cancellation so that the proper forms may be submitted to the card issuing bank. Other grounds for purchase/credit card cancellation include seriously delinquent debts, travel advances or

outstanding Diners Club/American Express charge balances, or using a Government purchase/credit card for personal use.

L. Personal Use. Disciplinary action will be taken against individuals using the Government purchase/credit card for personal use. Disciplinary action can range from a letter in the cardholder's official personnel file to a termination action, based upon the facts involved regarding the documented personal purchases and the OA Purchase/Credit Card Program procedures.

M. Liabilities.

1. *Purchase(s) by an unauthorized person*. OAs will not be liable for any use of purchase/credit cards by a person who does not have actual or implied authority to utilize the purchase/credit card, provided that reasonable efforts are made to promptly notify the card issuing bank by telephone and in writing when purchase/credit cards are lost or stolen.

2. *Unauthorized purchases by cardholders*. OAs will be liable for unauthorized purchases made by cardholders, provided that:

- a. The purchase was made through an approved merchant; and
- b. The amount of the purchase did not exceed the cardholder's single purchase or monthly spending limits.

## **VIII. WRITTEN PROCEDURES, AUDIT AND REVIEW OF PURCHASE/CREDIT CARD TRANSACTIONS.**

A. Written procedures developed by the OAs implementing the Purchase/Credit Card Program within their organizations must incorporate tight management controls to preclude abuse and outline courses of action in case abuses occur.

B. DOT is implementing an automated module into the Departmental Accounting and Financial Information System (DAFIS) which will randomly select purchase/ credit card transactions for audit. OAs which are converting to or currently use DAFIS will be subject to this random audit of purchase/credit card transactions.

C. Each participating COCO must maintain oversight of the Purchase/Credit Card Program through regularly scheduled and/or randomly scheduled procurement reviews of purchase/credit card transaction logs and documentation. These reviews shall include Standard Industry Classification (SIC) Code reviews or similar random sampling reviews. These reviews may be performed in conjunction with regularly scheduled reviews (see TAM 1201.671) or as a separate review function. Some areas to specifically cover include:



1. Adequate funding;
2. Splitting orders;
3. GSA mandatory schedule items purchased on the open market;
4. Small business set aside compliance;
5. Purchase of improper items;
6. Use of purchase/credit cards by other than authorized users; and
7. Informal ratification of unauthorized commitments.

**DEPARTMENT OF TRANSPORTATION PROCEDURES  
FOR ACQUIRING TRAINING SERVICES**

**I. GENERAL.**

Department of Transportation (DOT) policies and procedures for acquiring training services by other than warranted contracting personnel are set forth herein.

**II. DEFINITIONS.**

A. "Chief of the Contracting Office (COCO)" means the individual responsible for managing the contracting office(s) within an Operating Administration (OA). The COCO is the official granting a delegation of procurement authority (DPA) under these procedures.

B. "Commercially-available/off-the-shelf," means existing training that is regularly offered to the general public and/or Government personnel in the course of normal business operations. The term includes training offered by a college, university, professional association, group, or organization. The term does not include training specifically developed, designed, or produced to meet a particular DOT requirement.

C. "Delegation of Procurement Authority (DPA)" means the authorizing document, approved and signed by the cognizant COCO or designee granting specific procurement authority to an individual Government employee. If required by the organizational structure of the OA, the COCO or designee shall obtain the approval of the Head of the Contracting Activity prior to granting DPAs under these procedures.

D. "Established catalog or market price" means a catalog, price list, schedule or other verifiable and established record that: (1) is published or otherwise available for customer inspection, (2) states the current or last sales price to the public or private sector (3) is established in the course of ordinary and usual trade between buyers and sellers, and (4) can be substantiated by data from sources independent of the vendor.

E. "Fixed amount" means the cost of the training is of a firm amount (e.g., price per student, event, session, class program, course, seminar, or other instructional service).

F. "Head of the Contracting Activity (HCA)" means the individual responsible for managing the contracting offices within an OA who is a member of the Senior Executive Service or a flag officer.

G. "Simplified acquisition procedure" means the acquisition of training services by the methods prescribed in Federal Acquisition Regulation (FAR) Part 13, and as implemented by the Transportation Acquisition Regulation (TAR) and the Transportation Acquisition Manual (TAM).

H. "Training" as defined in the Government Employees Training Act (GETA) 5 U.S.C. 4101(4) (see EARL), means the process of providing for and making available to an employee, and placing or enrolling the employee in, a planned, prepared, and coordinated program, course (including correspondence), curriculum, subject, system, or routine of instruction of education, in scientific, professional, technical, or mechanical trade, clerical, fiscal, administrative, or other fields, which will improve individual and organizational performance and assist in achieving the agency's mission and performance goals. For the purposes of these procedures, the term includes meetings, seminars, conferences, symposia and associated course training materials (i.e., study plans, workbooks, handbooks, and manuals) furnished with the training. It is not appropriate to use the SF-182 for the sole purpose of acquiring "stand-alone" training supplies.

### **III. POLICY.**

No employee of DOT, other than a contracting officer or a recipient of a Delegation of Procurement Authority (DPA), operating within the limits of his or her authority, may enter into formal contracts, authorize contract modifications or otherwise bind, commit or obligate the Government contractually for training.

DPA recipients are only authorized to procure training under the conditions prescribed in paragraph IV. below. Otherwise, training must be procured by warranted DOT contracting officers.

Training shall be acquired within the limitations and procedures of the GETA, FAR, TAR, TAM, and the Departmental Personnel Manual (DPM). If the acquisition accomplished through the use of the purchase/credit card, Appendix B and OA purchase/credit card procedures shall be followed.

### **IV. APPLICABILITY.**

The policies and procedures set forth herein apply to the Office of the Inspector General (OIG) and the OAs when:

A. A DPA has been issued to a specific individual authorizing the acquisition of supplies or services in support of the Department of Transportation;

B. The training cost for an individual student or training requirement does not exceed the lesser of:

- a limitation set forth in an individual's DPA; or
- the small purchase limitation established by FAR Part 13;

C. The annual reasonably foreseeable aggregate training cost for a training requirement does not exceed the small purchase limitation (i.e., it would be inappropriate to segregate a known requirement for several courses on a specific subject into an individual requirement by date of offering or other means in order to circumvent the small purchase limitation and, therefore, avoid sending the requirement to a contracting office for processing);

D. The training cost is based upon pre-established fixed catalog or market prices;

E. The training is available from a Government source of supply (i.e., General Services Administration, Office of Personnel Management, etc.) OR is commercially available/off-the-shelf or modified commercially available off-the-shelf as set forth in paragraph VI.G. below; and

F. The contracting methods discussed in paragraphs V.C. or VI.C. below are used to acquire training services.

## **V. ACQUISITIONS WITHIN THE MICRO-PURCHASE THRESHOLD (\$2,500):**

The DOT Purchase/Credit Card Program, is the preferred method of acquiring all training services in an amount of \$2,500 or less. Every effort shall be made to provide purchase/credit cards to individuals (normally human resources management personnel) who are responsible for acquiring training services of \$2,500 or less in support of their activity.

### **A. Simplified acquisition training.**

Each prospective DPA recipient will be required to attend simplified acquisition training equivalent to the purchase/credit card training conducted by the OA (see Appendix B, Chapter V.C.).

### **B. Delegation of Procurement Authority (DPA).**

1. Appendix B details the process for identifying prospective cardholders and processing card account set-up forms, and the required procurement, finance and property control training. Upon completion of the simplified acquisition training, an individual who has been granted a purchase/credit card DPA and issued a card is authorized to acquire training services within the limits of the DPA, the policies and procedures for the use of the purchase/credit card set forth in Appendix B, and the OA purchase/credit card procedures.

2. Copies of pertinent acquisition regulations referenced in these procedures (including the DOT/OA purchase/credit card procedures), if not received as part of the simplified acquisition

training, shall be requested from the cognizant COCO by the Purchase/Credit Card Program approving official when preparing and submitting cardholder account set-up forms.

3. DPA recipients shall be appointed in writing. A memorandum similar to the sample at Attachment 1 shall be used to grant a purchase/credit card DPA. At the discretion of the OA and the cognizant COCO, a purchase/credit card DPA and a DPA for acquiring training services in amount of \$2,500 (micro-purchase threshold) or less can be combined.

#### C. Methods of Acquiring Training Services.

##### 1. DOT Purchase/Credit Card Program.

The purchase/credit card shall be used to the maximum extent possible to acquire training within the cardholder's single purchase limit (generally not to exceed \$2,500).

##### 2. Use of SF 182.

In the absence of a purchase/credit card or when a contractor does not accept the government purchase/credit card, an SF-182 may be used to acquire training services of \$2,500 or less using the procedures set forth in paragraph VI.C. below. An employee may be designated for a DPA to acquire training services in amount of \$2,500 or less upon attending purchase/credit card training conducted by the OA.

##### 3. Imprest Fund.

For those infrequent occasions when the purchase/credit card or an SF-182 cannot be used, a DPA recipient may use imprest fund procedures to acquire training in accordance with DOT Order 2770.7 series, and DOT Office of Financial Management (B-30) memoranda dated September 19, 1991 (see EARL), and October 21, 1991 (see EARL). The imprest fund shall be used only for those training needs: in amounts not in excess of the imprest fund limitation; which could not have been anticipated; and which must be satisfied immediately. Justification for use of the imprest fund in lieu of the SF-182 or purchase/credit card must be documented in the official order file (see paragraph VII.D.).

#### D. Funds Certification.

A Purchase Request (PR) DOT F 4200.1, is not required to acquire training services using a government purchase/credit card. In lieu of a PR, required approvals or funds certification may be secured by any method prescribed by an OA that establishes a record of the action (i.e., by memorandum, routing slip or other written documentation, by annual, quarterly or monthly commitment accounts established by accounting certification officers/funds administrators; by using electronic mail to document approvals and certifications, etc.).

E. Competition.

Purchases within the micro-purchase threshold (\$2,500 or less) may be made without securing competition, if the price is determined fair and reasonable. Requirements in excess of \$2,500 shall not be divided or "split" into two or more separate purchases in order to avoid competition.

**VI. ACQUISITIONS GREATER THAN THE MICRO-PURCHASE THRESHOLD (>\$2,500):**

A. Simplified acquisition training.

Each prospective DPA recipient will be required to attend formal simplified acquisition training of at least 32 hours duration that, at a minimum, addresses the requirements of FAR Part 3, (Improper Business Practices and Personal Conflicts of Interest), FAR Part 8 (Required Sources of Supplies and Services), and FAR Part 13 (Simplified Acquisition and Other Simplified Purchase Procedures). Contracting offices shall assist in identifying qualified simplified acquisition training courses for prospective DPA recipients.

B. Delegation of Procurement Authority.

1. The OIG and each OA shall identify those Government employees (normally human resources management personnel) required to perform training support functions within their activity to be designated as DPA recipients responsible for acquiring training services within the limitations set forth herein. When selecting prospective DPA recipients, consideration shall be given to an individual's experience in obtaining training services, business acumen, judgment, character and demonstrated financial responsibility (e.g., no seriously delinquent debts such as travel advances or charge card balances (American Express)).

2. Upon successful completion of the required simplified acquisition training, the name of the prospective DPA recipient and a copy of the individual's course completion certificate or equivalent documentation shall be submitted to the cognizant COCO, requesting the issuance of a DPA. At the discretion of the COCO, a written DPA will be granted designating the individual as an authorized official for the acquisition of training services within the limitations and procedures of GETA (see EARL), FAR, TAR, TAM, DPM and the procedures set forth herein.

3. Copies of pertinent acquisition regulations referenced in these procedures, if not received as a part of the simplified acquisition training, shall be requested from the DPA granting official when requesting a DPA. A memorandum (see Sample Request for Delegation of Procurement Authority (Training Services) in EARL) shall be used to request a DPA to acquire training services under these procedures.

4. DPA recipients shall be appointed in writing (see Sample Delegation of Procurement Authority in EARL). The DPA memorandum shall state the scope of the DPA recipient's authority as limited by these procedures and shall be automatically terminated upon the individual's reassignment or termination of employment. The DPA may also be terminated in writing in the case of unsatisfactory performance or for other reasons as determined necessary by the cognizant COCO. DPAs granted under these procedures may not be redelegated.

5. The COCO shall forward a copy of each DPA granted or terminated under these procedures to the Director, Acquisition and Grant Management, 400 Seventh St., S.W., Washington, DC 20590, Attn: M-61. This notification requirement may be satisfied by submitting a semi-annual list of the DPA recipients' names, addresses, telephone numbers and routing symbols to M-61.

C. Methods of acquiring training services.

1. DOT Purchase/Credit Card Program.

The purchase/credit card shall not be used to acquire training services in an amount greater than the micro-purchase threshold set forth in FAR 2.101. Purchases shall not be divided or "split" into two or more acquisitions to avoid the purchase/credit card threshold.

2. Use of SF-182.

For the purposes of these procedures, an SF-182 shall be considered an alternative agency purchase order form (FAR) 48 CFR 13.307). Attachment 1, SF-182 Supplemental Terms and Conditions, shall be attached to the form before issuing it to a vendor or contractor. When an SF-182 is used to acquire training from a Government source of supply, Attachment 1 is not required.

In accordance with federal statutes and Internal Revenue Service (IRS) regulations, FAR Clause 52.204-3 requires that contractors furnish their Taxpayer Identification Numbers (TIN) to the Government. The contractor may provide the information verbally to the ordering official or in writing when submitting invoices in accordance with the billing instructions contained on the SF-182. If the information is provided orally, the authorized purchasing official (DPA recipient) is responsible for transmitting the TIN to the servicing accounting/financial management office. Accounting/financial management offices are responsible for transmitting the TIN to IRS.

TAR 1213.7101 requires that offerors certify the data submitted with its offer; therefore, TAR 1252.237-71 must be incorporated in full text to request for quotations or solicitation for training services when the content and/or presentations of the training is controlled by DOT (see TAR 1213.7100).

The SF-182 may also be used for requesting, approving and certifying payment for attendance at meetings, conferences, seminars and symposia, the primary purpose of which is to train the individual to meet a job-related need.

#### D. Funds Certification.

DPA recipients shall obtain the signature of the accounting certification official/funds administrator in the "Agency Use Only" section of the SF-182 as evidence of the availability of funds for obligation under the order. If one of the signatories in Section D, Approvals, is also responsible for funds certification, a second signature need not be obtained. A notation to the effect that "the individual approving in Block # \_\_\_ is also certifying the availability of funds for this purchase" is acceptable.

#### E. Competition.

Purchases in excess of micro-purchase threshold must be acquired through reasonable competitive procedures (generally, soliciting at least three sources) in accordance with FAR 13.3. If practicable, two sources not included in the previous competition for similar training services should be requested to furnish quotations. DPA recipients should make every effort to locate new sources and rotate solicitations among sources to the maximum extent practicable. In accordance with FAR 13.103, standing price quotations, such as catalog prices, may be substituted for obtaining individual quotations for each purchase.

The DPA recipient may make a determination that only one source is reasonably available as set forth in FAR Part 13.106-3(a)(2); however, the official order file shall be documented to explain the absence of competition. (See sample Sole Source Justification in EARL.)

Competition need not be obtained when acquiring training from a Government source of supply.

#### F. Posting Notices of Solicitations.

For proposed actions exceeding \$10,000, DPA recipients shall use the information system (electronic bulletin board or other means of displaying notifications) established in their cognizant contracting offices for the purpose of posting notices of solicitations or copies of solicitations in accordance with TAR 1205.101.

#### G. Modifications.

In the event a change, revision or modification that alters the fixed price of commercially-available/off-the-shelf training is required to meet specific DOT requirements, either prior to or after executing an order for training services, the official order file shall be documented with supplemental information summarizing the changes (i.e, alterations, deletions, expansion, tailoring) required. The official order file shall also include a summary of the price negotiation,



including the basis for determining that the price to be paid for modified commercially-available/off-the-shelf training is fair and reasonable in relation to the established catalog or market price. DPA recipients may enlist the assistance of warranted contracting personnel in negotiating price adjustments when faced with changes to fixed-price, commercially available/off-the-shelf training.

Modifications shall be issued using an SF-182 as the obligating document. Additional pages may be attached as deemed necessary to adequately describe the change, revision or modification to the commercially-available/off-the-shelf training.

## **VII. ACQUISITION PROCEDURES:**

Except as otherwise stated, the following requirements are applicable to the acquisition of all training services under these procedures:

### **A. Advanced Acquisition Planning.**

Human resources management personnel are responsible for forecasting, to the best of their ability, the yearly training requirements for their activities. Higher echelon human resources management personnel are responsible for monitoring and identifying predicted annual requirements of subordinate organizations that may be combined for contracting purposes. Yearly requirements in excess of the small purchase limitation per individual student or training requirement must be identified and transmitted to procurement offices sufficiently in advance of the fiscal year in which formal contract award(s) is necessary. Personnel are encouraged to seek guidance concerning procurement leadtimes from their cognizant contracting office in order to allow sufficient time for processing contract award(s).

While it is recognized that emergency or anticipated training situations may occur, total predictable annual requirements may not be divided or "split" into two or more acquisitions to avoid the competition threshold (\$2,500) and avoid sending requirements to contracting offices. Neither shall predictable annual training requirements be "split" among equivalent training sources (i.e., essentially the same training given under different titles, or by different vendors) to avoid sending the requirements to contracting offices.

### **B. Small business set asides.**

1. Except for training services acquired from a required Government source of supply, all acquisitions estimated to exceed the micro-purchase threshold (\$2,500) but not exceeding \$100,000 shall be reserved exclusive for small business concerns ((FAR) 48 CFR 13.003(b)(1)). If the purchase is made to other than a small business, the official order file shall be documented with the reason for the unrestricted purchase (see paragraph VII.D.).

2. DPA recipients are encouraged to request assistance from cognizant Small Business Administration (SBA) center representatives and DOT Offices of Small and Disadvantaged

Business Utilization (OSDBU) liaison personnel in identifying small business concerns capable of meeting their training requirements. The DOT Headquarters SBA Procurement Center Representative (PCR), can be reached at (202) 366-5323. A national directory of SBA PCRs is available in EARL. A telephone listing of DOT OSDBU liaison personnel for each of the OAs may be obtained by calling their National Information Clearinghouse at (800) 532-1169.

C. Official Order File.

DPA recipients shall establish an official order file in support of the training acquired under these procedures. The file may be organized on an individual basis for each transaction or as a master filing system in which all of the records would be combined in one file, easily accessible for acquisition planning purposes as well as for reviews and audits.

D. Official Order File Documentation. The official order file shall include the following the following documentation as applicable to the purchase:

1. Funds certification. See paragraph V.D. above.
2. Justification for use of imprest fund. See paragraph V.C.3. above.
3. Price reasonableness. In accordance with (FAR) 48 CFR 13.106-3(a), the DPA recipient is responsible for documenting the official order file with the basis for determining the price reasonableness of the training to be purchased (i.e., competitive quotations, comparison with competitive published price lists, published market prices, fixed catalog prices).
4. Small business set asides. If a determination is made that there is no reasonable expectation of obtaining quotations from small businesses, as set forth in (FAR) 48 CFR 19.502-2(a), the DPA recipient shall document the order file with the reason(s) for the unrestricted purchase.
5. Sole source justification. For requirements in excess of \$2,500, solicitations may only be limited to one source, if it is determined that it is the only source reasonably available ((FAR) 48 CFR 13.106-3(b)(3)(i)), and if the price is determined fair and reasonable. If only one source is solicited, the official order file must be documented to explain the absence of competition.
6. Modifications. The official order file documentation shall include a summary of the price negotiation and determination of price reasonableness as set forth in paragraph VI.G. above.

DPA recipients shall use Form DOT F 4230.1, Simplified Acquisition Summary for the purpose of documenting their official order file. The DPA recipient shall sign the Simplified Acquisition Summary form as the approving official. Form DOT F 4230.1 need not be completed when the training is acquired from a Government source of supply.

#### E. Administration and Close out of Official Order Files.

DPA recipients are responsible for ensuring that:

1. training services are received and/or conducted in accordance with the terms of the order;
2. all necessary information is maintained and reported for all training obtained under these procedures;
3. invoices are reviewed and approved for payment in a timely fashion in order to preclude the payment of interest under the provisions of the Prompt Payment Act (31 U.S.C. 3109 et.seq.) (see EARL); and
4. official order files are not destroyed before three years after final payment.

#### F. Records.

In addition to the official order file, DPA recipients shall maintain a control log for the purpose of tracking all orders issued under these procedures when the acquisition is accomplished using an SF-182 or the Government purchase/credit card. As a minimum, the control log shall provide the name and address of the vendor, training date(s), title, and total price of the training acquired under these procedures. Any additional information required by human resources development organizations for tracking and reporting purposes must also be maintained.

By October 15 of each year, a copy of the log information for the previous twelve month period shall be provided to the Office of the Secretary, Human Resources Development Division, M-13, and to the DPA granting official to assist in Departmental advanced acquisition planning and maintaining oversight on the appropriate use of the delegated authority.

### VIII. AUDIT AND REVIEW.

The DPA granting official is responsible for reviewing a random sample of the official order files and control logs to ensure that authorized procedures are being followed. The reviews shall be conducted no less frequently than every three years from the implementation date of these procedures. Written documentation of the results of these reviews shall be maintained by the cognizant contracting office and the records shall be made available to reviewing activities (i.e., GAO, OIG, DOT) on an as-required basis.

### IX. IMPLEMENTATION.

These procedures may be used immediately, but shall be fully implemented no later than October 25, 1994.

List of Attachments:

Attachment 1      SF-182 Supplemental Terms and Conditions--DOT

**SF-182 SUPPLEMENTAL TERMS AND CONDITIONS FOR  
COMMERCIAL ACQUISITIONS--DOT**

The following provisions/clauses supplement SF-182, Request, Authorization, Agreement and Certification of Training. All the following FAR/TAR clauses apply to this order at the dollar thresholds indicated below:

**Required at all dollar levels:**

FAR 52.203-3	Gratuities (APR 84)
* FAR 52.204-3	Tax Identification (MAR 94) TIN: _____ (Offeror provides)
FAR 52.222-21	Certification of Nonsegregated Facilities (APR 84)
FAR 52.222-22	Previous Contract and Compliance Reports (APR 84)
FAR 52.222-26	Equal Opportunity (APR 84)
FAR 52.227-14	Rights in Data-General, w/Alt. I, II, III (JUN 87)
FAR 52.232-1	Payments (APR 84)
FAR 52.232-8	Discounts for Prompt Payment w/Alt. I (MAY 97)
** FAR 52.232-18	Availability of Funds (APR 84)
FAR 52.232-25	Prompt Payment (JUN 97)
FAR 52.233-1	Disputes (OCT 95)
FAR 52.233-3	Protest After Award (AUG 96)
FAR 52.236-1	Performance of Work by the Contractor (APR 84)
FAR 52.243-1	Changes-Fixed Price (AUG 87) w/Alt. II, III
FAR 52.245-2	Government Property (Fixed-Price Contracts) (DEC 89)
FAR 52.245-4	Government-Furnished Property (Short Form) (APR 84)
FAR 52.249-1	Termination for Convenience of the Government, (Fixed-Price) (Short Form) (APR 84)
FAR 52.249-8	Default (Fixed-Price Supply and Service) (APR 84)

**Required for actions greater than \$2,500:**

FAR 52.222-36	Affirmative Action for Handicapped Workers (APR 84)
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**Required for actions greater than \$10,000:**

FAR 52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 84)
FAR 52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 88)

\* Must be incorporated in full text; all other clauses may be incorporated by reference. If the TIN is not provided verbally at the time of award, Clause FAR 52.204-3, shall be completed by the contractor and submitted with the contractor's invoice.

\*\* Required if the action will be chargeable to funds of the new fiscal year and the action is to be initiated before the funds are available (see FAR 32.703-2 for limitations on use).

**(a) Definitions.**

"Common parent," as used in this solicitation provision, means that corporate entity that owns or control an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Corporate status," as used in this solicitation provision, means a designation as to whether the offeror is a corporate entity, an unincorporated entity (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

"Taxpayer Identification Number (TIN)," as used in this solicitation provision means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns.

(b) All offerors are required to submit the information required in paragraph (c) through (e) of this solicitation provision in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the IRS. If the resulting contract is subject to the reporting requirements described in FAR 4.903, the failure of refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

**(c) Taxpayer Identification Number (TIN).**

- ☐ TIN: \_\_\_\_\_
- ☐ TIN has been applied for.
- ☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;

☐ Offeror is an agency or instrumentality of a foreign Government;

☐ Other. State basis: \_\_\_\_\_

**(d) Corporate Status.**

☐ Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;

☐ Other corporate entity;  
☐ Not a corporate entity:  
☐ Sole proprietorship  
☐ Partnership  
☐ Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

**(e) Common Parent.**

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this clause.

☐ Name and TIN of common parent:

Name: \_\_\_\_\_  
TIN: \_\_\_\_\_

(End of Provision)

**TAR 1252.237-1      CERTIFICATION OF DATA (DATE)**

(a) The offeror represents and certifies that to the best of its knowledge and belief, the information and/or data (e.g., company profile, qualifications, background, brochures) submitted with its offer is current, accurate, and complete as of the date of its offer.

(b) The offeror understands that any inaccurate data provided to the Department of Transportation may subject the offeror, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) termination for default under any contract resulting from its offer and/or; (3) debarment or suspension.

(c) The offeror agrees to obtain a similar certification from its subcontractors.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Type Name and Title \_\_\_\_\_  
Firm \_\_\_\_\_

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title, U.S.C., Section 1001.

(End of provision)

**TAR 1252.237-72      PROHIBITION ON ADVERTISING (DATE)**

The Contractor or its representatives shall not advertise or solicit business for private, non-government training offerors in the performance of this contract. This prohibition extends to oral

comments, distribution or sales of written materials, and/or sales of promotional videos or audio tapes regarding non-government training opportunities.

The Contractor agrees to insert the substance of this clause in its subcontracts.

(End of clause)



## **CHAPTER 1214**

### **SEALED BIDDING**

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##### **SUBCHAPTER 1214.1--USE OF SEALED BIDDING**

###### **1214.101 Elements of sealed bidding.**

###### **1214.101-70 Independent Government estimates.**

The requirements for an independent Government estimate found at TAM 1215.404-70 also apply to this subchapter.

## **SUBCHAPTER 1214.2--SOLICITATION OF BIDS**

### **1214.201 Preparation of invitation for bids.**

#### **1214.201-7 Contract clauses.**

The authority of the HCA under (FAR) 48 CFR 14.201-7(b)(2) and (c)(2) to waive inclusion of (FAR) 48 CFR 52.214-27 and 52.214-28 in a contract with a foreign government or agency of that government is delegated to the COCO.

### **1214.202 General rules for solicitation of bids.**

#### **1214.202-4 Bid samples.**

(d) *Justification.* The justification required by (FAR) 48 CFR 14.202-4(d) shall be prepared and signed by the technical official responsible for the procurement request and concurred in writing by the contracting officer.

#### **1214.202-5 Descriptive literature.**

(c) *Justification.* The justification required by (FAR) 48 CFR 14.202-5(c) shall be prepared and signed by the technical official responsible for the procurement request and concurred in writing by the contracting officer.

#### **1214.202-7 Facsimile bids.**

(a) Contracting officers may authorize facsimile bids (see (FAR) 48 CFR 14.201-6(w)) after considering the factors outlined in (FAR) 48 CFR 14.202-7, provided that procedures and controls are established by the COCO for receiving and safeguarding incoming bids.

### **1214.213 Annual submission of representations and certifications.**

(a) The DOT contracting offices are authorized to use annual representations and certifications submission procedures for sealed bidding provided that the requirements of subparagraph (b) below are met.

(b) The COCO shall establish procedures and assign responsibility for centrally requesting, receiving, storing, verifying and updating offerors' annual representations and certifications, if any.

## **SUBCHAPTER 1214.4--OPENING OF BIDS AND AWARD OF CONTRACT**

### **1214.401 Receipt and safeguarding of bids.**

(a) Contracting offices shall properly identify and deposit unopened bids in the bid box. Bid envelopes received by mail shall be time-stamped and checked for identification prior to deposit in the bid box. Bid samples should receive the same degree of security as bids, and accounted for by the maintenance of local records. Bid samples shall not be given away, loaned, diverted, or used for any purpose other than that intended.

### **1214.404 Rejection of bids.**

#### **1214.404-1 Cancellation of invitations after opening.**

(c) and (e) The authority of the agency head to make a written determination to cancel an invitation for bids and reject all bids after opening and to authorize completion of the acquisition through negotiation is delegated to the COCO.

### **1214.407 Mistakes in bids.**

#### **1214.407-3 Other mistakes disclosed before award.**

(a) through (e). The authority of the agency head to make a determination to permit a bidder (1) to correct a mistake in bid; to correct but not withdraw a bid, or to neither withdraw nor correct a bid is delegated to the COCO, without power of redelegation.

(i) The contracting officer shall forward doubtful cases under (FAR) 48 CFR 14.407-3(i) directly to the Comptroller General.

#### **1214.407-4 Mistakes after award.**

(b) The determination authorized under (FAR) 48 CFR 14.407-4(b) shall be in writing, made by the contracting officer, and included in the contract file.

(d) The coordination of the determination made under (FAR) 48 CFR 14.407-4(b) shall be conducted in accordance with OA procedures and evidence of legal counsel coordination shall be included in the contract file.

**1214.408 Award.**

**1214.408-2 Responsible bidder--reasonableness of price.**

(a) The determination required by (FAR) 48 CFR 14.408-2 shall be in writing and included in the contract file.

**1214.409 Information to bidders.**

**1214.409-2 Award of classified contracts.**

Disposition actions for classified information furnished or created in connection with a solicitation shall be in accordance with the Defense Industrial Security Program. (See TAM 1204.403.)

**1214.470 Revalidation of requirements.**

If a procurement action has been in process for over 1 year from the date an adequate procurement request was received, the contracting officer shall revalidate the request to ensure a valid requirement still exists before the bid opening date. The revalidation shall be documented in the contract file.

## **CHAPTER 1215**

### **CONTRACTING BY NEGOTIATION**

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##### **APPENDICES**

Appendix A	DOT structured approach for profit or fee objective.
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##### **SUBCHAPTER 1215.3--SOURCE SELECTION**

###### **1215.303 Responsibilities.**

(a) The authority of the agency head to be responsible for source selection is delegated to the HOA or designee. The contracting officer is designated the Source Selection Authority (SSA), unless the HOA or designee appoints another individual, for all proposed acquisitions or group of acquisitions (except those acquisitions under paragraph (b)).

(b) The HOA or designee at a level not lower than a flag officer or Senior Executive Service shall be the SSA for those acquisitions which are subject to the requirements of TAM Chapter 1234.

### **1215.305 Proposal evaluation.**

(a)(4) *Cost information.* Cost information may be provided to members of the technical evaluation team as the SSA deems necessary.

## **SUBCHAPTER 1215.4--CONTRACT PRICING**

### **1215.400-70 Scope of subpart.**

Whenever agreement on prices is necessary for prime contracts, contract modifications, and any order issued under a contract, the requirements of (FAR) 48 CFR 15.4 and this subchapter apply unless specifically excluded.

### **1215.401-70 Definitions.**

"Order" means any action under a contract which requires or directs the contractor to provide supplies or services including, but not limited to: task orders, job orders, and orders issued under indefinite-delivery contracts, technical directions, letters of technical direction, technical task directives, directives and other similar actions. It does not include technical directions and directives which provide only technical instructions for clarification purposes. These technical instructions shall not change or modify any terms or conditions of the contract, including price, delivery, rights of the parties, or the effort to be performed.

### **1215.403 Obtaining cost or pricing data.**

#### **1215.403-1 Prohibition on obtaining cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).**

(c)(i)(B) Contracting officers shall submit to the COCO for a decision, a written statement of the facts which lead to the contracting officer's determination of unreasonable price. The COCO's written decision shall be placed in the contract file.

#### **1215.403-570 Instructions for submission of cost or pricing data or information other than cost or pricing data.**

When an offeror refuses to provide needed data or information, the contracting officer shall refer the matter to the COCO for resolution.

### **1215.404 Proposal analysis.**

#### **1215.404-4 Profit.**

(b) *Policy.*

(1) Pursuant to (FAR) 48 CFR 15.404-4, DOT has established a structured approach for determining the profit or fee objective.

(i) The contracting officer shall use the DOT structured approach (Form DOT F 4220.32, Weighted Guidelines Profit/Fee Objective), to determine the profit or fee objective before conducting negotiations for those acquisitions that require cost analysis. Form DOT F 4220.32 shall be made a part of the prenegotiation memorandum.

(ii) The contracting officer may use an alternate structured approach in lieu of the weighted guidelines for the acquisitions listed below. The rationale for profit or fee determined by the alternate structured approach shall be substantiated in a manner similar to that used in the weighted guidelines method.

(A) Architect-engineering contracts;

(B) Management contracts for operation and/or maintenance of Government facilities;

(C) Construction contracts;

(D) Contracts primarily requiring delivery of material supplied by subcontractors;

(E) Termination settlements;

(F) Cost-plus-award-fee contracts; and

(G) Contracts having unusual pricing situations.

(d) Profit-analysis factors. (1) Appendix A, DOT Structured Approach for Profit or Fee Objective, cites elements which should be considered when completing Form DOT F 4220.32.

(2) *Additional factors.* Factors to be considered for nonprofit organizations also are contained in Appendix A.

#### **1215.404-70 Independent Government estimate.**

(a) The requiring office shall provide an Independent Government Estimate (IGE) for proposed negotiated acquisitions, unless exempted by TAM 1215.404-70(c).

(b) The IGE should reflect how the estimate was derived by delineating such costs as the major labor categories, materials, travel, consultant, computer usage, etc. Any previous cost experience the Government has had in acquiring the same or similar items also should be provided with the IGE.

(c) Unless the contracting officer requires otherwise, an IGE is not required for the following:

- (1) proposed awards using simplified acquisition procedures under (FAR) 48 CFR Part 13;
- (2) administrative modifications such as incremental funding;
- (3) modifications to exercise fixed priced options;
- (4) modifications to resolve cost overruns under cost reimbursement contracts;
- (5) proposed acquisitions for items that meet the commercial item definition in (FAR) 48 CFR Part 2; and
- (6) when prices for the supplies or services are set by law or regulation.

#### **1215.406 Documentation.**

##### **1215.406-170 Prenegotiation objectives.**

(a) The Government's prenegotiation objective shall be in writing and have substance, rationale, and detail sufficient to explain to a third party how the overall reasonableness of the proposed prices were determined and how the objective represents a fair and reasonable amount.

(b) OAs shall establish procedures for the review and approval of the prenegotiation objective which shall be documented in a Prenegotiation Memorandum (PM). The PM shall be signed by the contracting officer, approved at a level commensurate with the value and complexity of the proposed acquisition, and be in consonance with the requirements of TAM 1204.70.

##### **1215.406-370 Documenting the negotiation.**

(a) OAs shall establish procedures for the review and approval of the Price Negotiation Memorandum (PNM). At a minimum, the PNM shall be signed by the contracting officer, approved at a level commensurate with the value and complexity of the proposed acquisition, and be in consonance with the requirements of TAM 1204.70.

##### **1215.407 Special cost or pricing areas.**

##### **1215.407-4 Should-cost review.**

(b) *Program should-cost review.*

(4) The should-cost review team report shall be prepared in accordance with OA procedures.



**DOT STRUCTURED APPROACH FOR PROFIT OR FEE OBJECTIVE****INTRODUCTORY REMARKS.**

When using the Form DOT F 4220.32, Weighted Guidelines Profit/Fee Objective, the contracting officer shall categorize the acquisition as a manufacturing, research and development (R&D) or a services effort. To determine to which category a particular acquisition belongs, the contracting officer shall rely on the nature of the work to be performed. When acquisitions involving R&D and services require a significant amount of facilities for efficient contract performance (as determined by the contracting officer), the manufacturing weighted guidelines method may be appropriate. Similarly, certain contracts for the manufacture of small quantities of high technology supplies and equipment may not require a significant amount of facilities. In these cases, an R&D classification may be appropriate.

In determining profit or fee, DOT recognizes the tax posture of the business entity. A fair and reasonable management fee to a non-profit organization with a tax-exempt status is considerably lower than a profit/fee to a commercial enterprise with a taxable status.

**Non-Profit Organizations.**

The following applies to non-profit organizations:

1. As used in this subchapter, non-profit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes; of which no part of the net earnings accrue to the benefit of any private shareholder or individual; of which no substantial part of the activities include carrying on propaganda, or otherwise, on behalf of any candidate for public office; and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.
2. When the Weighted Guidelines Method for arriving at a profit/fee position is used for non-profit organizations, the contracting officer shall make the following adjustments:
  - a. The weight ranges for "Cost risk" (Item 14 on the DOT F 4220.32) shall be replaced with -1 to 0.
  - b. The Total Profit/Fee Objective (Item 20 on the DOT F 4220.32) shall be reduced by up to 1% for manufacturing type efforts and up to 3% for R&D or Services type efforts.

### Commercial Organizations.

For the purposes of this subchapter, DOT utilizes the description from (FAR) 48 CFR 31.103 to describe commercial organizations.

## **I. CONTRACTOR EFFORT.**

This factor takes into account what resources are necessary and what the contractor must do to meet the contract performance requirements. Evaluation of this factor and the assignment of weights on the DOT F 4220.32 requires analyzing the cost content of the proposed contract in the following areas:

### A. Material acquisition (e.g., subcontracted items, purchased parts, and other material).

1. Consider the managerial and technical efforts necessary for the prime contractor to administer subcontracts and select subcontractors, including efforts to break out subcontracts from sole sources through the introduction of competition.

2. Consider whether the contractor's purchasing program makes a substantial contribution to the performance of a contract through the use of subcontracting programs involving many sources; new complex components, systems, or subsystems; and close surveillance by the prime contractor.

### B. Direct labor (e.g., engineering, service, manufacturing, and other labor).

1. Analysis of the various items of cost shall include evaluation of the comparative quality and level of the engineering talents, manufacturing and service skills, and experience to be employed. In evaluating labor for the purpose of assigning profit weights, consideration shall be given to the amount of notable scientific talent, unusual or scarce engineering talent needed, in contrast to journeyman engineering effort or supporting personnel. Higher weights are normally assigned to engineering, professional, or highly technical skill levels and lower weights to semiprofessional or other skill levels.

2. The variety of engineering, manufacturing and other types of labor skills required and the contractor's manpower resources for meeting these requirements shall be considered.

### C. Overhead and general management (general and administrative (G&A)).

When analyzing overhead and G&A, consider the makeup of these expenses and how much they contribute to contract performance. If the contractor proposes a single indirect cost rate, the contracting officer shall breakout the composite rate or contact the auditor to determine what is in the overhead and G&A expense pools. This information will assist in determining the appropriate weights for overhead and G&A on the DOT F 4220.32.

#### D. Other costs.

Include all other direct costs associated with contractor performance under this item. This includes airfare, lodging, computer support, etc. The assignment of a weight on the DOT F 4220.32 for this factor shall be based on the nature of these costs and how much they contribute to contract performance.

### II. CONTRACTOR RISK.

The degree of cost risk assumed by the contractor should influence the amount of profit/fee anticipated. Consider the following when determining a weight for cost risk:

#### A. Contract type.

The degree of cost risk is related to the selection of contract type. For example, if a portion of the risk has been shifted to the Government through cost-reimbursement, or other risk reducing measures, the weight assigned to this factor should be less than acquisitions where the contractor assumes most or all of the risk. This is particularly evident when using time-and-material and labor-hour contracts priced on a time and material basis. These contract types shall be considered to be cost-plus-fixed-fee contracts for the purpose of establishing a profit weight in the evaluation of the contractor's assumption of cost risk.

#### B. Subcontracting program.

The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a particular contract type. Analysis is necessary to determine if real cost risk has been transferred to a subcontractor. If this is the case, the contract cost risk weight assigned may be below the range that would normally be assigned.

#### C. Definitization.

For procurement actions that involve definitization of a letter contract, unpriced change orders, etc., where partial performance has occurred, evaluate the effect on total contract cost risk. If it is determined that the total amount of cost risk has been effectively reduced as a result of the partial performance, a lower weight may be appropriate. In addition, evaluate the type of work performed (e.g., complexity) and the type of work remaining to ensure an equitable weight assignment.

### III. FACILITIES INVESTMENT.

Form DOT F 4220.34, Facilities Capital and Cost of Money, is used to determine the capital employed and cost of money amounts to be entered on the DOT F 4220.32.

#### A. Utilization

To evaluate how facilities contribute to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source and financing of the required facilities, and the overall cost effectiveness of the facilities offered. Contractors furnishing their own facilities that significantly contribute (as determined by the contracting officer) to lower total contract costs generally receive additional profit/fee. Conversely, contractors that rely on the Government to provide or finance needed facilities normally receive a correspondingly lower profit/fee. The following factors should also be considered:

1. The productivity improvements resulting from the facilities capital investment including the economic value of the facilities capital (e.g., physical age, undepreciated value, idleness, and expected contribution to future Government needs).

2. The degree to which the capital investment has direct, identifiable, and exceptional benefits to the Government, such as: new investments in state-of-the-art technology which reduce acquisition cost or yield other tangible benefits such as improved product quality or accelerated deliveries, or investment in new equipment for R&D applications.

#### B. New Investment

To assist in evaluating *new* investment, the contracting officer should request the contractor to submit reasonable evidence that the new facilities investment will result in benefits to the Government.

### IV. SPECIAL FACTORS.

#### A. Productivity

The purpose of this factor is to recognize a prospective contractor's investment in modern cost-reducing facilities and other improvements in efficiency. This factor is applied when the acquisition is a follow-on manufacturing effort, actual cost data are available to establish a baseline, and changes in item configuration are not large enough to invalidate price comparability. The dollar amount inserted under the measurement base of the DOT F 4220.32 is based on the estimated cost reduction that can be attributed to productivity gains.

#### B. Independent development

The purpose of this factor is to recognize independent research and development on the part of the prospective contractor pertaining to the end item being procured. To determine the appropriate weight to assign this factor on the DOT F 4220.32, it is important to evaluate whether the development cost was recovered directly or indirectly from Government sources. This factor is applied when the item is important to the advancement of the DOT mission and the

prospective contractor demonstrates initiative in determining the need and application of the developed item.

C. Other.

1. *Socioeconomic programs.* This factor covers a number of special circumstances or particular acquisitions. It relates to the prospective contractor's participation in Federal socioeconomic programs. In addition to providing a reward for unusual initiative in supporting Government socioeconomic programs, failure or unwillingness on the part of the prospective contractor to support these programs should be viewed as evidence of poor performance for the purpose of establishing this profit/fee objective factor.

2. *Performance.* The purpose of this factor is to evaluate the prospective contractor's past and present performance in such areas as: product quality, meeting specifications and contract schedules (including the administrative aspects of performance), efficiency in cost control (including the need for and reasonableness of costs incurred) especially under cost reimbursement contracts, accuracy and reliability of previous cost estimates, timely processing of changes, standards of good workmanship, history for reasonable and cooperative behavior and commitment to customer satisfaction, and the prospective contractor's business-like concern for the interest of the customer.



## **CHAPTER 1216**

### **TYPES OF CONTRACTS**

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##### **SUBCHAPTER 1216.2--FIXED-PRICE CONTRACTS**

1216.206	Fixed-ceiling-price contracts with retroactive price redetermination.
1216.206-3	Limitations.

##### **SUBCHAPTER 1216.5--INDEFINITE-DELIVERY CONTRACTS**

1216.501-2	General.
1216.505	Ordering.

##### **SUBCHAPTER 1216.6--TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS**

1216.601	Time-and-materials contracts.
1216.602	Labor hour contracts.
1216.603	Letter contracts.
1216.603-2	Application.
1216.603-3	Limitations.

##### **APPENDICES**

Appendix A	RESERVED
Appendix B	Determination and Findings authority to use a (specify Time and Materials or Labor Hour) contract.

##### **SUBCHAPTER 1216.2--FIXED-PRICE CONTRACTS**

**1216.206 Fixed-ceiling-price contracts with retroactive price redetermination.**

**1216.206-3 Limitations.**

(d) The authority of the HCA under (FAR) 48 CFR 16.206-3(d) must be retained at the HCA or higher level.

##### **SUBCHAPTER 1216.5--INDEFINITE-DELIVERY CONTRACTS**

**1216.501-2 General.**

(b)(2) The procurement request initiator shall prepare a written statement outlining the basis and methodology for determining the estimated quantity under an indefinite-quantity contract and a requirements contract.

## **1216.505 Ordering.**

(b) See TAM 1232.702-70 for additional requirements pertaining to oral orders.

## **SUBCHAPTER 1216.6--TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS**

### **1216.601 Time-and-materials contracts.**

(c) *Limitations.* When making the required determination and findings, the contracting officer shall use a format substantially the same as the format found in Appendix B to this chapter.

### **1216.602 Labor hour contracts.**

When making the required determination and findings, the contracting officer shall use a format substantially the same as the format found in Appendix B to this chapter.

### **1216.603 Letter contracts.**

#### **1216.603-2 Application.**

(c) The authority of the HCA to approve a CO's determination of a reasonable price or fee for a letter contract under (FAR) 48 CFR 16.603-2(c) is delegated to the COCO. Extensions to the definitization of a letter contract shall be approved by the COCO. See TAM 1243.70 for other requirements applicable to letter contracts as undefinitized contract actions.

#### **1216.603-3 Limitations.**

The authority of the HCA to approve the use of a letter contract under (FAR) 48 CFR 16.603-3 is delegated to the COCO.

(a) Requests for authority to issue a letter contract shall include as a minimum:

- (1) the name and address of the proposed contractor;
- (2) the location where the contract is to be performed;
- (3) the contract number, including modification number, if applicable;
- (4) a brief description of the work or services to be performed;
- (5) the amount of the letter contract;
- (6) the performance period or delivery schedule;



- (7) the estimated total amount of the definitive contract;
  - (8) the type of definitive contract to be executed (firm-fixed-price, cost-plus-award-fee, etc.);
  - (9) a statement that the definitive contract will contain all required clauses or that deviations to the required clauses have been obtained;
  - (10) a statement as to the necessity and advantage to the Government of a letter contract and why no other contract type is suitable; and
  - (11) a statement as to the competition received pursuant to (FAR) 48 CFR 16.603-3(b).
- (b) Profit or fee under letter contracts shall not be paid until after definitization of the letter contract (see (TAR) 48 CFR 1252.216-74).
- (c) Letter contracts shall contain the appropriate sections of the uniform contract format as discussed at (FAR) 48 CFR 15.204-1 as practicable.

**APPENDIX A**

**RESERVED**

**DETERMINATION AND FINDINGS**

Authority to use a *(specify Time and Materials,  
or Labor Hour)* contract

**FINDINGS**

1. The *(specify OA and contracting office within the OA)* of the Department of Transportation proposes to contract for *(describe the supplies and/or services being procured and identify program/project, if applicable)*.
2. The estimated amount of the contract is \$ \_\_\_\_\_.
3. *(Explain why no other type of contract is suitable for procuring the supplies or services of the kind or quantity required without using the proposed type of contract.)*

**DETERMINATION**

On the basis of the above findings, I hereby determine that no other type of contract other than a *(specify a Time and Materials or Labor Hour contract)* is suitable for this procurement.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Approving Official



## **CHAPTER 1217**

### **SPECIAL CONTRACTING METHODS**

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##### **SUBCHAPTER 1217.4--LEADER COMPANY CONTRACTING**

##### **SUBCHAPTER 1217.5--INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT**

1217.500	Scope of subchapter.
1217.501	Definition.
1217.502	General.
1217.503	Determinations and findings requirements.
1217.504	Ordering procedures.
1217.570	Signature authority.

##### **SUBCHAPTER 1217.6--MANAGEMENT AND OPERATING CONTRACTS**

1217.602	Policy.
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##### **SUBCHAPTER 1217.70--ENERGY SAVINGS PERFORMANCE CONTRACTS**

1217.7000	Congressional notification.
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##### **APPENDICES**

Appendix A	Determination and Findings for Use of Interagency Acquisitions.
Appendix B	Interagency Acquisition Format.

##### **SUBCHAPTER 1217.1--MULTI-YEAR CONTRACTING**

###### **1217.104 General.**

(b) The authority of the agency head to authorize modification of the requirements of this subpart under (FAR) 48 CFR 17.104(b) has already been redelegated under the deviation approval authority of TAM 1201.470.

## **1217.106 Procedures.**

### **1217.106-3 Special procedures applicable to DoD, NASA, and the Coast Guard.**

(e) *Recurring costs in cancellation ceiling.* The authority of the agency head under (FAR) 48 CFR 17.106-3(e) to include recurring costs in the cancellation ceiling is delegated to the HCA.

(f) *Annual and multiyear proposals.* The authority of the HCA under (FAR) 48 CFR 17.106-3(f) to authorize the use of a solicitation requesting only multi-year prices is delegated to the COCO.

(g) *Level unit prices.* The authority of the HCA under (FAR) 48 CFR 17.106-3(g) to approve the use of variable unit prices is delegated to the COCO.

## **SUBCHAPTER 1217.2--OPTIONS**

### **1217.204 Contracts.**

(e) Total contract periods may exceed five years as approved by the chief of the contracting office on a case-by-case basis. This authority shall not be delegated.

(1) Situations that may warrant this approval include contracts with phase-in or phase-out requirements or when the requirement is known, stable, and recurring; and the price and availability in the commercial market place is expected to be relatively stable during the period of the contract.

(2) Chief of the contracting office approval shall be made before a solicitation is released and documented in the contract file. Documentation shall include rationale for why a period longer than five years is necessary and how the price risks normally associated with a long performance period were mitigated.

## **SUBCHAPTER 1217.4--LEADER COMPANY CONTRACTING**

Leader company contracting shall not be used without the written authorization of the SPE.

## **SUBCHAPTER 1217.5--INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT**

### **1217.500 Scope of subchapter.**

This subchapter establishes DOT policy and procedures to assure the appropriate and consistent use of interagency acquisitions under the Economy Act (31 U.S.C. 1535) as prescribed by (FAR) 48 CFR 17.5.

### **1217.501 Definition.**

"Interagency Acquisition" means a procedure by which an OA obtains needed supplies or services from, or through, another Federal agency, and appropriated funds are obligated.

"Interagency Agreement" means the legal instrument used for an interagency acquisition to exchange funds or property between an OA and another Federal agency. This instrument is used when the OA meets the definition of either the Requesting Agency or the Servicing Agency.

"Memorandum of Understanding (MOU)" or "Memorandum of Agreement (MOA)" means the legal instrument used when OAs commit to the performance of specified actions with another OA, another Federal agency, or a non-Federal entity and the exchange of funds or property is not involved.

"Military Interdepartmental Procurement Requests (MIPR)" means a type of interagency agreement used to place orders for supplies and non-personal services with a military department.

"Requesting Agency" means the Federal agency which needs the supplies or services, and is obligating the funds to provide for the costs of performance.

"Servicing Agency" means the Federal agency which is providing the supplies, or performing the services, directly or indirectly, and will be receiving the funds to provide for the costs of performance.

### **1217.502 General.**

#### **(a) Policy.**

(1) Except as provided in (FAR) 48 CFR 7.3, it is the policy of DOT not to place Federal agencies in direct competition with commercial sources.

(2) It is the policy of DOT to require that interagency agreements are written to assure that the obligation of fiscal year funds is valid, that statutory authority exists to perform the stated requirements, that the stated requirements are consistent with DOT's mission responsibilities, and that each agreement complies with applicable laws and regulations.

(3) *Applicability.* The provisions of this subchapter apply to interagency acquisitions and agreements.

(4) *Exceptions.* The provisions of this subchapter do not apply to:

(i) MOUs and MOAs, as defined in TAM 1217.501 above;

(ii) Supplies and services acquired from or through Government sources, as described in (FAR) 48 CFR Part 8;

(iii) Contracts with the Small Business Administration based upon Section 8(a) of the Small Business Act; and

(iv) Cooperative agreements, as described in DOT Order 4000.8A, Use of Contracts, Grants, and Cooperative Agreements.

*(b) Appropriations Principles.*

The appropriate use of interagency acquisitions embodies several principles of Federal appropriations law.

(1) In order to record a valid obligation of appropriations, 31 U.S.C. 1501 imposes the requirements that interagency agreements be:

(i) A binding written agreement for specific goods or services to meet an existing bona fide need;

(ii) For a purpose authorized by law; and

(iii) Executed before the expiration of available funds.

(2) The Economy Act (31 U.S.C. 1535) authorizes interagency acquisitions, and provides for payment in advance, as well as reimbursement to the appropriation account to which the performance costs have been charged. The Economy Act further authorizes the servicing agency, as an alternative to fulfilling the requirement through internal resources, to obtain the needed supplies or services by contract. However, an Economy Act acquisition shall not be used to circumvent the competition requirements prescribed in (FAR) 48 CFR Part 6.

(3) An agreement entered into under the Economy Act is recorded as an obligation by the requesting agency the same as a contract. However, under the Economy Act, the obligated appropriations must be deobligated upon their date of "expiration" to the extent that the servicing agency has not incurred obligations through charged costs or under a contract. This deobligation requirement is applicable to annual and multiple-year appropriations; it is not applicable to no-year appropriations. MIPRs are viewed as authorized by the Economy Act.

(4) Where an interagency acquisition is based upon some statutory authority other than the Economy Act:

(i) The advance payment provision of the Economy Act does not apply. The statute cited as the authority for the agreement must also specifically permit an advance payment; otherwise, payment must be on a reimbursement basis.



(ii) The provision of the Economy Act which permits the servicing agency to obtain the needed supplies or services by contract does not apply. The statute cited as the authority for the agreement must also not specifically prohibit the servicing agency from fulfilling the requirement by contract. If such a prohibition exists, the servicing agency may only use internal resources to fulfill the requirement.

(iii) The deobligation required by the Economy Act does not apply. In this situation, the obligation will remain available for payment, regardless of when performance occurs, in the same manner as a contract obligation.

(5) Within DOT, the OAs have a number of statutory authorities available for entering into interagency agreements. Each OA shall be responsible for determining those authorities, as well as constraints applicable to the use of advance payments and contractors.

#### **1217.503 Determinations and findings requirements.**

(a) *Applicability.* Prior to the execution of an interagency agreement under the Economy Act, the CO shall sign the determination required in (FAR) 48 CFR 17.503.

(b) *Exceptions.* Such determination is not required for interagency agreements entered into under authorities other than the Economy Act.

(c) *Determination contents.* The determination shall be prepared in substantially the same format as shown in Appendix A and shall contain the following:

(1) An explanation as to why obtaining the supplies or services through another Federal agency is more economical or more convenient than by direct contract with a commercial concern; and

(2) As appropriate, the findings required by (FAR) 48 CFR 17.503.

#### **1217.504 Ordering procedures.**

(a) Requests for the processing of interagency agreements shall be submitted on Form DOT F 4200.1, Procurement Request, to the procurement office serving the requiring office.

(b) The Procurement Request (PR) shall state whether the work is to be performed by an OA, a Federal agency other than DOT, or through one of these entities by a contractor.

(c) Where the Economy Act is to be used as the authority for an interagency acquisition, the requiring office shall include with the PR documentation of the elements considered which support the conclusion that it is more economical to obtain the required supplies or services through the proposed interagency agreement, rather than by direct contract with a commercial concern. Current market prices or recent procurement prices may be used in this process.

(d) Orders placed under interagency agreements may take any form which is legally sufficient and reflects the agreement of the parties. The format shown in Appendix B is recommended for use by OAs when they are the requesting agency. (Other servicing agencies may have their own formats for interagency agreements.)

(e) The CO shall assure compliance with the ordering procedures and payment provisions prescribed in (FAR) 48 CFR 17.504 and 17.505, and should require inclusion of the following additional provisions in all interagency agreements and/or orders placed against them:

- (1) Legislative authority;
- (2) Period of performance;
- (3) Dollar amount of agreement;
- (4) Billing provisions, including the name and address of the following offices:
  - (i) Designated office to receive the required deliverables; and
  - (ii) Designated office to receive billings and process payments;
- (5) Modification and termination provisions; and
- (6) Other provisions, as appropriate.

(f) The CO shall assure that each interagency agreement or order placed against it includes a reference number assigned by each of the parties. Such numbers shall be assigned in accordance with the existing procedures established by the respective organizations.

(g) Modifications to existing interagency agreements may be accomplished through the use of a SF 30, Amendment of Solicitation/Modification of Contract, or through any other format acceptable to the parties.

#### **1217.570 Signature authority.**

All interagency agreements and/or orders placed against them which will result in a procurement action by the requesting or servicing agency shall be signed by a DOT CO.

## **SUBCHAPTER 1217.6--MANAGEMENT AND OPERATING CONTRACTS**

### **1217.602 Policy.**

(a) The authority of the agency head to determine in writing to authorize contracting officers to enter into or renew any management and operating contract under (FAR) 48 CFR 17.602(a) is nondelegable.

## **SUBCHAPTER 1217.70--ENERGY SAVINGS PERFORMANCE CONTRACTS**

### **1217.7000 Congressional notification.**

Congressional notification is required 30 days before the award of an energy savings performance contract with a cancellation ceiling in excess of \$750,000. This notification shall be coordinated with the Office of Budget, B-10. Send one copy of the notification to M-60 and M-40.

## DEPARTMENT OF TRANSPORTATION

*Name of Operating Administration*DETERMINATION AND FINDINGSFindings

1. The proposed Interagency Agreement with *(name of agency)* is to obtain *(description and purpose of supplies or services required)*.
2. It is more economical (or more convenient) to obtain the required supplies or services through the proposed Interagency Agreement, rather than by direct contract with a commercial concern because *(state rationale)*.
3. Legal authority for the acquisition otherwise exists.
4. The action does not conflict with any other agency's authority or responsibility.
5. The acquisition involves the use of a commercial or industrial activity operated by the servicing agency, and conforms to the requirements of (FAR) 48 CFR Subpart 7.3. *(Include only if applicable: This finding is applicable if the servicing agency operates a commercial or industrial activity using Government personnel. In order to conform to the requirements of (FAR) 48 CFR Subpart 7.3, the servicing agency must operate the activity as the result of an A-76 review process, or the activity must be scheduled for A-76 review.)*

Determination

Based upon these findings, I hereby determine that it is in the Government's interest to obtain the required supplies/services from another Federal agency, as authorized by the Economy Act (31 U.S.C. 1535).

---

Date

---

Contracting Officer

(Requesting Agency) Agreement No. \_\_\_\_\_  
(Servicing Agency) Agreement No. \_\_\_\_\_

**INTERAGENCY AGREEMENT  
Between**

**(Requesting Agency)  
and**

**(Servicing Agency)**

**I. BACKGROUND AND OBJECTIVES**

This section should be a narrative explanation of the background and objective(s) of the agreement. This section should also cite the legislative authority for entering into the agreement.

**II. STATEMENT OF WORK**

This section should identify the respective roles of the parties and joint responsibilities. The servicing agency's work and financial plans should be incorporated by reference in the agreement.

This section should also identify required deliverables (including reports) to be provided by the servicing agency, the delivery schedule, and the designated office to receive the required deliverables.

If applicable, this section should also identify projected milestones which reflect the conduct of activities to be performed by the parties.

**III. PERIOD OF PERFORMANCE**

This section should identify the effective period of performance required to complete the objectives of the agreement. Agreements will expire at the end of this period, unless otherwise extended through formal modification by the parties, or terminated prior to the expiration date.

**IV. FINANCIAL ADMINISTRATION**

A. Total Agreement Amount. This section should identify the total amount of the agreement. If the agreement is to be incrementally funded, this section should also indicate

the amount of funds currently obligated, and further provide that continuation of the work will be contingent upon the future availability of funds.

B. Funding Citation. This section should provide the accounting data for the appropriation charged with and the amount of the obligation.

C. Payment Provisions. This section should identify;

(1) Whether payment will be made in advance, or on a reimbursable basis. If on a reimbursable basis, the billing frequency should be specified.

(2) The method of billing, i.e., SF 1081, Simplified Intergovernmental Billing and Collection (SIBAC), Government On-Line Payment and Collection (OPAC), etc. Any information which must be included in the billing document, such as the requirement to include a reference to the requesting agency's assigned agreement number, must be specified.

(3) The designated requesting agency office to which the billing document should be sent.

## V. KEY OFFICIALS

This section shall identify the key program officials designated by the respective parties to interact on technical issues during performance.

## VI. SPECIAL PROVISIONS

This section shall identify any other aspects of performance of the agreement for which specific coverage is appropriate, such as:

- the acquisition of equipment by the servicing agency;
- restrictions of the use of funds by the servicing agency;
- restrictions on the use of contracting methods (e.g., multiyear) by the servicing agency; or
- limitations on the dissemination of information by the servicing agency.
- requesting agency monitoring of progress/performance.

## VII. MODIFICATIONS

This section shall provide language substantially as follows:

Modifications to this Agreement may be proposed at any time during the period of performance by either (any) party, and shall become effective upon approval by both (all) parties.

#### **VIII. TERMINATION**

This section shall provide language substantially the same as follows:

Either (any) party may terminate this Agreement by providing 60 (or whatever time frame is appropriate) days written notice to the other(s).

#### **IX. SIGNATURES**

This section shall provide signature lines, titles, and dates signed including that of a CO in accordance with TAM 1217.570.





**TRANSPORTATION ACQUISITION MANUAL**

**CHAPTER 1218**

**(RESERVED)**



## **CHAPTER 1219**

### **SMALL BUSINESS PROGRAMS**

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1219.7001 Small Business Innovation Research (SBIR) Program.

1219.7002 Eligibility requirements.

## **SUBCHAPTER 1219.2--POLICIES**

### **1219.201 General policy.**

(b) The authority of the HCA , to be responsible for effectively implementing the small business programs within their activities is nondelegable.

(c)(2) The authority of the agency head, to appoint an agency Director of Small and Disadvantaged Business Utilization is nondelegable.

(c)(7) The authority of the Director of Small and Disadvantaged Business Utilization (S-40) to assign a small business technical advisor (i.e., small business specialist) to each contracting activity within the agency to which the SBA has assigned an SBA procurement center representative is delegated to the HCA. A copy of the written assignment to the advisor shall be sent to S-40.

(c)(9) The cognizant OA small business specialist acting on behalf of S-40 shall review each procurement request to comply with the requirements of (FAR) 48 CFR 19.201(c)(9).

(d) The HCA shall appoint small business specialists in accordance with TAM 1219.201(c)(7) and the specialist shall:

(1) Maintain a program designed to locate capable small, small disadvantaged and women-owned small business concerns for current and future acquisitions;

(2) Coordinate inquiries and requests for advice from small, small disadvantaged and women-owned small business concerns on acquisition matters;

(3) Review each procurement request to:

(A) assure that small business concerns are afforded an equitable opportunity to compete for contracts which they can perform;

(B) initiate recommendations for small business set-asides (individual and class);

(C) identify requirements for the 8(a) program; and

(D) identify the possible breakout of items or services suitable for acquisition from small, small disadvantaged and women-owned small business concerns;

(4) Take action to assure the availability of adequate specifications and drawings, when necessary, to obtain small business participation in an acquisition. When the small business concerns cannot be given an opportunity on a current acquisition, initiate action, in writing, with appropriate technical and contracting personnel to ensure that necessary specifications and/or drawings for future acquisitions are available;

(5) Advise small businesses with respect to the financial assistance available under existing laws and regulations and assist such concerns in applying for financial assistance;

(6) Participate in the evaluation of prime contractor's small business subcontracting programs;

(7) Assure that adequate records are maintained, and accurate reports prepared, concerning small business participation in acquisition programs;

(8) Make available to SBA copies of solicitations when requested;

(9) Act as liaison with the appropriate SBA office or representative in connection with set-asides, certificates of competency, size classification, and any other matter concerning the small, small disadvantaged and women-owned business programs; and

(10) Participate in business opportunity, Federal procurement and other Government-industry conferences and meetings as required.

#### **1219-201-90 Procurement Center Representative (PCR).**

(a) A Small Business Administration PCR (see EARL) is located at the following DOT contracting activities:

- (1) Coast Guard Academy, New London, CT;
- (2) Coast Guard Civil Engineering Unit, Juneau, AK;
- (3) Coast Guard Facilities Design and Construction Center, (Pacific), Seattle, WA;
- (4) Federal Aviation Administration, Des Plaines, IL;
- (5) Federal Aviation Administration, Oklahoma City, OK;
- (6) Federal Aviation Administration, Atlantic City, NJ;
- (7) Federal Aviation Administration, Fort Worth, TX;
- (8) Federal Aviation Administration, Burlington, MA;
- (9) Federal Highway Administration, Denver, CO; and
- (10) Volpe National Transportation Systems Center, Cambridge, MA.

(b) A SBA-PCR is located in the Office of Small and Disadvantaged Business Utilization (S-40). This individual serves as the PCR for each contracting activity located at or assigned to the OA Headquarters in the Washington, DC-Metropolitan Area.

#### **1219.202 Specific policies.**

##### **1219.202-2 Locating small business concerns.**

(b) In addition, the Major Procurement Preference Program Goals Monthly Reporting Form, shall be submitted monthly to the Director, OSDBU, in accordance with OA procedures.

##### **1219.202-270 Procurement forecast.**

(a) *Requirement.* Title V, Contract Planning, Goal Setting and Reviews of Pub. L. 100-656, requires each agency to prepare a procurement forecast (formerly known within DOT as the annual procurement plan) for the next and succeeding fiscal years. The forecast must be also updated within the year. The procurement forecast is not a substitute for meeting the (FAR) 48 CFR 7 requirements for acquisition planning unless authorized under TAM 1207 (e.g., TAM 1207.101-70).

(b) *Purpose.* The purpose of the procurement forecast is to make available to small businesses, those expected contract opportunities that small business concerns, including those owned and controlled by socially and economically disadvantaged individuals, are capable of performing. The following requirements apply:

(1) *Responsibility.* The HOA or designee (written delegation required) shall ensure the forecast and any updates to it are prepared for those expected contract opportunities valued over \$100,000 which are proposed to result in contracts issued by DOT contracting officers. The forecast may be prepared manually using DOT Form F 4220.12 or by electronic means in accordance with instructions issued by S-40.

(2) *Preparation and approval.* The forecast shall be prepared and approved the year preceding the fiscal year in which the procurement action will be initiated. The initial forecast shall be approved by the OA approving official no later than September 1 and made available to S-40 by September 15, and any updates shall be approved by April 1 and made available to S-40 by April 15. A negative response to S-40 is required when neither an initial forecast nor update is required for the period.

(c) *Exceptions.* The following proposed procurement actions should not be included in the forecast:

(1) Actions proposed under inter and intra agency agreements for work to be performed by Government employees;

(2) General Working Agreements and supporting project plan agreements between RSPA/Volpe National Transportation Systems Center and DOT operating administrations; and

(3) Actions conducted under the Small Business Innovative Research Program;

(d) *Reporting.* S-40 will provide the initial forecast and any updates to it to the Administrator of the Small Business Administration and to small businesses as required by Pub.L 100-656.

## **SUBCHAPTER 1219.5--SET-ASIDES FOR SMALL BUSINESS**

### **1219.501 General.**

(c) Each DOT proposed acquisition exceeding the simplified acquisition threshold shall be reviewed by the cognizant OA small business specialist prior to synopsisizing the requirement and the results documented in the file. The COCO shall resolve any disagreement between the specialist and the contracting officer on the determination. Disagreement between the contracting officer and personnel from the Small Business Administration will be resolved in accordance with (FAR) 48 CFR 19.

### **1219.502 Setting aside acquisitions.**

#### **1219.502-3 Partial set-asides.**

(a)(5) The authority of the HCA, to authorize, on a case-by-case basis, a partial small business set-aside if there is a reasonable expectation that only two concerns (one large and one small) with capability will respond with offers is delegated to the COCO.

### **1219.505 Rejecting Small Business Administration recommendations.**

(a) The authority of the HCA, to render a written decision on the SBA procurement center representatives appeal, is delegated to the COCO.

(b) The COCO shall forward its justification which upheld the contracting officer's decision to the HCA.

(c)(1) The authority of the HCA, to render a written decision on the contracting officer's rejection of the SBA procurement center representative's recommendation is delegated to the COCO. The authority of the agency head, to receive and render a decision on the appeal from the SBA Administrator is delegated to the HCA.

(d) The authority of the agency head, to reply to the SBA Administrator's appeal is delegated to the HCA.

**1219.506 Withdrawing or modifying set-asides.**

(b) The COCO shall be responsible for resolution of disagreements between the contracting officer and the OAs Small Business Specialist.

**SUBCHAPTER 1219.6--CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF RESPONSIBILITY**

**1219.602 Procedures.**

**1219.602-1 Referral.**

(a)(2) The contracting officer shall forward to S-40, a copy of the notice of nonresponsibility determination sent to SBA.

**1219.602-3 Resolving differences between the agency and the Small Business Administration.**

(a) *COCs valued between \$100,000 and \$25,000,000.*

(1) The contracting officer shall attempt to resolve those reasons for determining a small business to be nonresponsible. This could include an extensive review of the elements which caused this responsibility determination. Particularly in the areas of financial stability, past performance, and technical capability. Assistance from the OA's small business specialist, if any, should be sought.

(2) In the request for a COC, the contracting officer shall advise the SBA Headquarters to send the notice of receipt of the case file to the designated official (i.e., COCO) in lieu of the DOT Office of Small and Disadvantaged Business Utilization (S-40). However, the contracting officer shall send an informational copy of the notice to S-40.

(3) The contracting officer shall send its notice of appeal directly to SBA Headquarters with a copy to S-40.

(a)(2) The contracting officer shall forward any appeal through the designated official (i.e., COCO) to SBA Headquarters with a copy to S-40.



## **SUBCHAPTER 1219.7--SUBCONTRACTING WITH SMALL BUSINESS, SMALL DISADVANTAGED BUSINESS AND WOMEN-OWNED SMALL BUSINESS CONCERNS**

### **1219.704 Subcontracting plan requirements.**

### **1219.704-70 Reporting requirements.**

Contractors must comply with the requirements of 15 U.S.C. 637 as implemented by (FAR) 48 CFR 52.219-9 and (TAR) 48 CFR 1252.219-70. The contracting officer shall forward a copy of the first SF-294 and the original of each SF-295 received from contractors to S-40.

### **1219.705 Responsibilities of the contracting officer under the subcontracting assistance program.**

#### **1219.705-2 Determining the need for a subcontracting plan.**

A copy of the determination that there are no subcontracting opportunities (see (FAR) 48 CFR 19.705-2(c)) shall be provided to the Director, OSDDBU.

#### **1219.705-6 Postaward responsibilities of the contracting officer.**

A copy of the approved small business subcontracting plan shall be provided to the Director, OSDDBU.

## **SUBCHAPTER 1219.8--CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(a) PROGRAM)**

### **1219.804 Evaluation, offering, and acceptance.**

#### **1219.804-470 Repetitive acquisitions.**

Any requirement which has previously been procured through the 8(a) Program, but which is now being proposed for reprourement outside of the 8(a) Program must be approved by the Director, OSDDBU, in accordance with OA procedures. The clearance shall be obtained prior to any public notice or solicitation of the requirement.

#### **1219.810 SBA appeals.**

(b) and (c) The authority of the agency head to render a decision to the SBA when the SBA and the contracting officer fail to (1) agree to make an acquisition available for award under the 8(a) Program; (2) to agree on the terms and conditions of a sole source acquisition to be awarded under the 8(a) Program; or agree on the estimated fair market price is delegated to the COCO.

(d) The authority of the agency head to either confirm or withdraw the contracting officer's request to SBA to waive the requirement for contract termination is delegated to the COCO.

#### **1219.812 Contract administration.**

The authority of the agency head to confirm or withdraw a request to SBA to waive termination for convenience of an 8(a) contractor because the contractor transfers ownership or control of the firm under (FAR) 48 CFR 19.812(d) is delegated to the COCO.

### **SUBCHAPTER 1219.70--SMALL BUSINESS INNOVATION RESEARCH PROGRAM**

#### **1219.7001 Small Business Innovation Research (SBIR) Program.**

(a) The Small Business Innovation Development Act of 1982 (Pub. L. 97-219) and reauthorizing legislation (Pub. L. 99-443) and the Small Business Research and Development Act of 1992 (Pub. L. 102-564) seek to encourage the initiative of the private sector and to use small businesses as effectively as possible in meeting Federal research and development objectives. Each agency is required to set aside a percentage of their budget for a Small Business Innovation Research Program (SBIR). To comply with obligations of the Act, a DOT Small Business Innovation Research Program was established to conform to these public laws and to guidelines and regulations of the Small Business Administration. By memorandum dated November 5, 1992, the Secretary delegated to the DOT Transportation System Center, the overall responsibility for coordinating and implementing the DOT SBIR.

(b) Annually, DOT solicits from small businesses, innovative research proposals that address high priority requirements of the DOT and have potential for commercialization. The DOT SBIR Program is a three-phase process:

(1) Phase I is the conduct of feasibility-related experimental or theoretical research or Research and Development (R&D) efforts on specified research topics. The dollar value of the proposal should not exceed \$100,000 and the period of performance may be up to six months. The primary basis for award will be the scientific and technical merit of the proposal and its relevance to DOT requirements. Only awardees in Phase I are eligible to participate in Phase II.

(2) Phase II is the principal research or R&D effort having a period of performance of approximately two years with a dollar value of up to \$750,000. Phase II proposals under the SBIR Program are accepted only from firms which have previously received a DOT Phase I award. Awards would be based upon the results achieved in Phase I, the technical merit of the Phase II proposals, potential for commercialization and commitment for follow-on funding from non-federal sources for Phase III.

(3) Phase III is to be conducted by the small business with nonFederal funds to pursue commercial applications of the research or R&D funded in Phases I and II by DOT. Phase III may also involve follow-on non-SBIR funded contracts with components of DOT for products or processes for use by the Government.

**1219.7002 Eligibility requirements.**

To be eligible under the DOT SBIR Program, the firm must qualify as a small business for research or R&D purposes; the primary employment of the principal investigator must be with the proposing firm at the time of award and during the proposed research effort; and, the research or R&D work must be performed in the United States, including its territories and possessions. Questions regarding the DOT SBIR Program should be addressed to the following:

DOT/SBIR Program Office, DTS-22  
U.S. Department of Transportation  
Research & Special Programs Administration  
Volpe National Transportation Systems Center  
55 Broadway, Kendall Square  
Cambridge, Massachusetts 02142-1093  
ATTN: DOT SBIR Program Director  
Telephone: (617) 494-2051 FAX: (617) 494-2497



**TRANSPORTATION ACQUISITION MANUAL**

**CHAPTER 1220**

**(RESERVED)**



**TRANSPORTATION ACQUISITION MANUAL**

**CHAPTER 1221**

**(RESERVED)**





## **CHAPTER 1222**

### **APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

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### **1222.001 Definition.**

For the purpose of DOT, the term "contracting agency," wherever it appears under (FAR) 48 CFR Part 22, means the OA.

## **SUBCHAPTER 1222.1--BASIC LABOR POLICIES**

### **1222.101 Labor relations.**

### **1222.101-1 General.**

(e) The authority of the HCA under (FAR) 48 CFR 22.101-1(e) to designate programs or requirements for which it is necessary that contractors be required to notify the Government of actual or potential labor disputes that are delaying or threaten to delay the timely contract performance is retained by the HCA.

### **1222.101-170 DOT Labor Coordinator/Advisor.**

(a) The labor coordinator for the DOT is under the auspices of the Director, Office of Economics (P-35), Office of the Assistant Secretary for Policy and International Affairs (P-1), Office of the Secretary, Washington, DC.

(b) Each OA may appoint a labor advisor at the Headquarters level. If one is appointed, the OAs shall advise, in writing, the contracting offices under their cognizance of the appointment. The labor advisor will be responsible for coordinating with and/or obtaining advice from the DOT labor coordinator on contracting matters of a severe nature when deemed appropriate or as may be required by this chapter.

### **1222.101-3 Reporting labor disputes.**

(a) Contracting officers shall report to their labor advisor, or the DOT labor coordinator if a OA labor advisor does not exist, any potential or actual labor disputes (e.g., strike) that may have a serious impact on the Department's programs. The following information shall be provided to the advisor/coordinator:

(1) The contractor's and, if applicable, subcontractor's name, address, contract number, and the contractor's point of contact at the contractor's plant or the place where work is being performed (e.g., construction site);

(2) The date the strike began or will begin;

(3) The urgency or critical nature of the affected contract, and whether another source can perform the contract;

(4) Name, address, and telephone number of the local union and union representative(s);

(5) An assessment of the strike with regard to settlement of the issues;

(6) Number of employees affected by the strike; and

(7) The extent, if any, of participation by a federal or state mediation agency.

(b) The contracting officer shall advise, as applicable, the cognizant OA labor advisor or DOT labor coordinator when the strike is terminated and the work has resumed under the contract.

**1222.101-4 Removal of items from contractors' facilities affected by work stoppages.**

(a) When any potential or actual labor disputes may interfere with performing the contract, the contracting officer shall determine, in coordination with the initiator of the procurement request (i.e., program office), whether it is in the Government's best interest to remove items or materials from facilities which the contractor is unable to deliver because of the strike. Normally, two of the main factors to be considered in making this determination are the critical needs of the DOT program and whether the contract can be completed by another source. If the decision is to remove items or materials from the contractor's/ subcontractor's facility, the contracting officer shall follow the below procedures:

(1) Contact the OA's labor advisor or DOT labor coordinator and apprise that person of the decision;

(2) Obtain a list of the contracts the contractor has with other Government agencies or DOT OAs. If contracts of the agency or OA are or may become involved in the removal of items, advise the applicable contracting office of the decision to remove items; and

(3) Unless otherwise advised by the labor advisor or labor coordinator, submit a written request for removal of items to the contractor and the union representative. The request shall include the following:

(i) A statement of the urgency or criticality of the items or materials;

(ii) A full description (i.e., color, weight, dimensions, etc.), quantity, contract/subcontract number, contract line item number, etc.; and

(iii) A decision on whether personnel of the Government or contractor/subcontractors will remove the items from the location, and the mode of transportation and destination, if the delivery terms will not be the same as those in the contract.

(b) If the contractor or subcontractor and union representative grant the request for removal of items and Government personnel will remove the items, extreme care must be taken to avoid the use or appearance of force and prevent incidents that might detrimentally affect labor-management relations.

(c) If a negative response is received from the contractor, subcontractor, or union representative and the items are still critical, the contracting officer shall seek advice from the COCO and the DOT labor coordinator on the next action to be taken. It may also become necessary to seek

advice or assistance from the National Office of the Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, DC, 20006, or other mediation agency.

#### **1222.103 Overtime.**

#### **1222.103-4 Approvals.**

(a) An official at least one supervisory level above the contracting officer is designated to sign the D&F required by (FAR) 48 CFR 22.103-4 unless a higher level is specified in OA procedures. The D&F shall be written, in the format of Appendix A, and placed in the contract file.

### **SUBCHAPTER 1222.3--CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

#### **1222.302 Liquidated damages and overtime pay.**

(c)(1) The authority of the head of the agency under (FAR) 48 CFR 22.302(c)(1) to make an adjustment in, or release the contractor or subcontractor from the liability for, liquidated damages of \$500 or less is delegated to the contracting officer.

(c)(2) The authority of the head of the agency under (FAR) 48 CFR 22.302(c)(2) to make a recommendation to the Secretary of Labor for an adjustment in or release from the liability when the liquidated damages are over \$500 is delegated to the contracting officer.

(d) If the contractor is entitled to funds withheld or collected for liquidated damages, the contracting officer shall instruct the finance office to pay the contractor the amount due. If the Government is entitled to retain funds, the contracting officer shall dispose of the funds in accordance with the instructions of the cognizant finance office. The contractor shall be provided with a written decision on the disposition of funds withheld and the basis for the decision.

### **SUBCHAPTER 1222.4--LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION**

#### **1222.404 Davis-Bacon Act wage determinations.**

#### **1222.404-6 Modifications of wage determinations.**

(b)(6) The authority of the agency head under (FAR) 48 CFR 22.404-6(b)(6) to request an extension of the 90-day period from the Administrator, Wage and Hour Division is delegated to the contracting officer.

## **1222.404-10 Posting wage determinations and notice.**

The contracting officer shall mail a copy of DOL Publication WH-1321 along with the executed copy of the contract to the contractor. Copies of the poster may be obtained by writing to the Department of Labor, 200 Constitution Avenue, N.W., Washington, DC, 20210, Attn: Wage and Hour-ESA, Room S3018.

## **1222.406 Administration and enforcement.**

### **1222.406-2 Wages, fringe benefits, and overtime.**

(b) The contracting officer shall submit the information required by (FAR) 48 CFR 22.406-2(b)(2) to the Administrator, Wage and Hour Division, DOL. The contracting officer shall advise interested parties of DOL's determination within ten working days after receipt of the determination.

### **1222.406-8 Investigations.**

(d) *Contracting officer's report.* The authority of the agency head to receive from the contracting officer the report of violations regarding labor standards is delegated to the COCO. The contracting officer shall use Form DOT F 4220.8, Summary of Underpayments, to support the total number of employees cited on SF 1446, Labor Standards Investigation Summary Sheet.

### **1222.406-9 Withholding from or suspension of contract payments.**

(c) *Disposition of contract payments withheld or suspended.*

(4) *Liquidated damages.* If the contractor is entitled to funds withheld or collected for liquidated damages, the contracting officer shall instruct the finance office to pay the contractor the amount due. If the Government is entitled to retain funds, the contracting officer shall dispose of the funds in accordance with the instructions of the cognizant finance office. The contractor shall be provided with a written decision on the disposition of the funds withheld and the basis for the decision.

### **1222.406-13 Semiannual enforcement reports.**

(a) The Headquarters of each DOT OA shall submit the semiannual report to M-60 by April 25 and October 25 of each calendar year. Negative responses are required.

(b) An original and one copy of each report shall be submitted in the Appendix B format, in accordance with the instructions thereon.

## **SUBCHAPTER 1222.6--WALSH-HEALEY PUBLIC CONTRACTS ACT**

### **1222.604 Exemptions.**

#### **1222.604-2 Regulatory exemptions.**

(b)(1) The authority of the agency head to request the Secretary of Labor to exempt specific contracts or classes of contracts from the requirements of the Walsh-Healey Public Contracts Act is delegated to the HCA for specific contracts and to the SPE for classes of contracts.

### **1222.608 Procedures.**

(a) *Award.* The contracting officer shall mail a copy of DOL Publication WH-1313 along with the executed copy of the contract to the contractor. Copies of the poster may be obtained by writing to the Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, ATTN: Wage and Hour-ESA, Room S3018.

(b) *Breach of stipulation.* The contracting officer, unless otherwise specified by OA procedures, shall submit a written notice of any violations to the applicable DOL region.

## **SUBCHAPTER 1222.8--EQUAL EMPLOYMENT OPPORTUNITY**

### **1222.803 Responsibilities.**

(c) The authority of the head of the agency to ensure that the requirements of this subpart are carried out within the agency, and for cooperating with and assisting the OFCCP in fulfilling its responsibilities is delegated to the HOA.

(d) The contracting officer shall obtain the assistance of the OA's local legal counsel on matters concerning the applicability of E.O. 11246. If further assistance is still required, the matter shall be referred to the nearest DOL Office of Federal Contracts Compliance Programs (OFCCP) (see EARL). Questions concerning the implementation of the E.O. in the (FAR) 48 CFR or Departmental guidance shall be referred to M-60.

### **1222.804 Affirmative action programs.**

#### **1222.804-2 Construction.**

(b) From time to time, the Director, OFCCP, DOL, publishes in the Federal Register goals and timetables for minority and female utilization in the construction industry. This is based on appropriate workforce, demographic or other relevant data which covers construction projects or contracts performed in specific geographical areas. The goals are applicable to each construction trade in a covered contractor's or subcontractor's entire workforce which is working in the area

covered by the goals and timetables. A copy of the latest goals and timetables may be obtained from M-60.

#### **1222.805 Procedures.**

(a) *Preaward clearances for contracts and subcontracts of \$10 million or more (excluding construction).*

(1)(ii) (FAR) 48 CFR 22.805(a)(1)(ii) states, in-part, that the contracting officer shall request a preaward clearance before the award of a contract modification expected to aggregate \$10 million or more or to increase the aggregate value of an existing contract to \$10 million or more for new effort that would constitute a contract award. However, in accordance with 41 CFR Chapter 60, contracting officers shall obtain a preaward clearance on ALL contract modifications of \$10 million or more. Contract modifications that are issued to incrementally fund a contract are exempt from this preaward clearance requirement.

(5) The contracting officer shall prepare a letter request in substantially the same format as Appendix D, in strict accordance with the instructions, to prevent premature disclosure of the proposed contractor, subcontractor, if any, and the amount of the award. Since the OFCCP conducts the compliance review at the primary point of production of each contractor and first-tier subcontractor, contracting officers shall request the clearance from the OFCCP regional office (see EARL) which has jurisdiction over the contractor and subcontractor.

(6) The 45-day preaward clearance requirement under (FAR) 48 CFR 22.805(a)(6) shall be included in the acquisition cycle milestone planning.

(7) The authority of the HCA to approve the award without the preaward clearance from the OFCCP regional office is retained by the HCA.

(b) *Furnishing posters.* The contracting officer may order the poster titled "Equal Employment Opportunity is the Law, Discrimination is Prohibited" from the nearest supply depot of the GSA under National Stock Number 7690-00-926-8988.

#### **1222.807 Exemptions.**

(c) The contracting officer shall prepare a D&F setting forth clear and convincing reasons why an exemption was necessary under (FAR) 48 CFR 22.807(a)(1) or will be necessary under (FAR) 48 CFR 22.807(a)(2) or (b)(5). The D&F shall be in substantially the same format as Appendix A. The notification to the Director, OFCCP, as required by (FAR) 48 CFR 22.807(a)(1), or the request to the Director, OFCCP, for an exemption under (FAR) 48 CFR 22.807(a)(2) or (b)(5), shall be submitted through the OA's channels to the following signatory authorities:



(1) The authority of the agency head under (FAR) 48 CFR 22.807(a)(1) to determine that a contract is essential to the national security and that the award of the contract without complying with one or more of the requirements of this subpart is necessary to the national security is delegated to the HCA.

(2) For a request for exemption under (FAR) 48 CFR 22.807(a)(2), the authority of the agency head is delegated to the SPE; and

(3) For a request for exemption under (FAR) 48 CFR 22.807(b)(5), the authority of the agency head is delegated to the HCA.

## **SUBCHAPTER 1222.10--SERVICE CONTRACT ACT OF 1965, AS AMENDED**

### **1222.1003 Applicability.**

#### **1222.1003-4 Administrative limitations, variations, tolerances, and exemptions.**

(a) When requests for limitations, variances, tolerances, and exemptions, as permitted by (FAR) 48 CFR Subpart 22.10, from the Service Contract Act are necessary, contracting officers shall submit, via the OA labor advisor (if any) the requests to the Wage and Hour Administrator. Also, see TAM 1222.1021 for additional procedures concerning rate variances.

#### **1222.1003-7 Questions concerning applicability of the Act.**

Contracting officers may request written or oral advice from the OA labor advisor or the DOT labor coordinator; however, requests to the Administrator, Wage and Hour Division, shall be in writing.

#### **1222.1008 Procedures for preparing and submitting Notice (SF 98/98a).**

##### **1222.1008-2 Preparation of SF 98a.**

The Wage and Hour Division's "Service Contract Act Directory of Occupations" (see EARL) may be available through the Government Printing Office (GPO) rider requisitioning process; therefore, contracting officers shall consult with the GPO or the OA directives coordinator prior to placing a direct purchase order for the Directory with GPO.

##### **1222.1008-7 Required time of submission of Notice.**

(d) The contracting officer may make direct written or oral contact with the Wage and Hour Division concerning emergencies that will require an immediate wage determination. However, if the OA has a focal point which processes Department of Labor (DOL) issues, the written or oral request to DOL shall be coordinated with that individual or office.

## **1222.1011 Response to Notice by Department of Labor.**

### **1222.1011-2 Requests for status or expediting of response.**

Except when there is an OA representative to handle DOL issues, the contracting officer may make direct oral or written contact with the Wage and Hour Division concerning the status or the expediting of wage determinations.

### **1222.1013 Review of wage determination.**

Contracting officers shall contact (orally or in writing) the OA's labor advisor or if none, the DOT labor coordinator for advice when the conditions under (FAR) 48 CFR 22.1013(a) or (b) exist.

### **1222.1014 Delay of acquisition dates over 60 days.**

The contracting officer's inquiry to the Wage and Hour Division as required by (FAR) 48 CFR 22.1014 shall be in writing. A copy of the applicable wage determination shall be attached to the request to facilitate a prompt review and response by DOL. A telephone inquiry should be made if a response to the written inquiry is not received within a reasonable time.

### **1222.1021 Request for hearing.**

#### **1222.1021-70 Additional hearings data.**

(a) In addition to the requirements of (FAR) 48 CFR 22.1021(a), the request for a variance hearing must include copies of the relevant wage determination, if issued, collective bargaining agreement, and the SF 98 and 98a that requested the wage determination in question. Also, a statement of the case setting forth, in detail, the reasons why it is believed that a substantial variance exists with respect to some or all of the wages and/or fringe benefits, attaching available data concerning wages and/or fringe benefits prevailing in the locality. The statement shall contain an analysis concerning the differences between the collectively bargained rates issued and the rates contained in the following:

(1) Corresponding Federal wage board rates and surveys (while it is not necessary that the challenged rate be higher than the corresponding Federal rate, this is an important factor);

(2) Relevant Bureau of Labor Statistics survey data and the comparable Service Contract Act wage determination;

(3) Other wage data (e.g., rates paid in local hospitals would be appropriate for comparison on contracts for hospital antiseptic services, while rates paid in local schools could be of value in comparison for janitorial or food service workers); and

(4) Other collectively-bargained wages and benefits.

(b) If the contracting officer cannot provide all of the information required in paragraph (a) above with the request for a hearing, the approximate time needed to obtain the data or to develop the information must be provided. The request must clearly demonstrate the efforts being made to obtain or develop the information. A statement that data are not available will not be accepted by DOL.

## **SUBCHAPTER 1222.13--DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA**

### **1222.1303 Waivers.**

(a)(1) The authority of the agency head under (FAR) 48 CFR 22.1303(a)(1) to waive any or all of the terms of the clause at (FAR) 48 CFR 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era, for any contract if a waiver is deemed to be in the national interest is delegated to the HCA or designee no lower than flag officer or the SES level.

(a)(2) The authority of the agency head under (FAR) 48 CFR 22.1303(a)(2) to waive any or all of the terms of the clause at (FAR) 48 CFR 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era, for groups or categories of contracts if a waiver is in the national interest is delegated to the SPE.

(b)(1) The authority of the head of a civilian agency under (FAR) 48 CFR 22.1303(b)(1) to waive any requirement in this subpart when it is determined that the contract is essential to the national security, and that its award without complying with such requirements is necessary to the national security is delegated to the HCA.

(c) The contracting officer shall write a D&F for signature by the approving official specified under TAM 1222.1303(a). The D&F shall be in the format of and as required by Appendix A. The D&F and the concurrence/nonconcurrence from OFCCP shall be retained in the contract file. The following procedures apply:

(1) When the approving official under (FAR) 48 CFR 22.1303 is the HCA, the OA shall communicate directly with the OFCCP to obtain OFCCP's written concurrence; and

(2) When the approving official under (FAR) 48 CFR 22.1303 is the SPE, the contracting officer shall forward the D&F through the appropriate channels to M-60 for signature. After signature, the contracting officer shall communicate directly with the OFCCP to obtain OFCCP's written concurrence.

### **1222.1306 Complaint procedures.**

The contracting officer shall forward complaints about the administration of the Vietnam Era Veterans Readjustment Act of 1972, as amended, directly to the DOL OFCCP office (see EARL). All questions concerning the complaints shall be directed to the appropriate office of the DOL.

### **1222.1308 Contract clauses.**

(a)(1)(ii) The authority of the agency head under (FAR) 48 CFR 22.1308(a)(1)(ii) to waive all of the terms of the clause at (FAR) 48 CFR 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era, in accordance with (FAR) 48 CFR 22.1303(a) or (FAR) 48 CFR 22.1303(b) is delegated as follows:

(A) To the HCA or designee no lower than flag officer or the SES level, if the waiver is for (FAR) 48 CFR 22.1303(a)(1);

(B) To the SPE, if the waiver is for (FAR) 48 CFR 22.1303(a)(2); or

(C) To the HCA, if the waiver is for (FAR) 48 CFR 22.1303(b)(1).

(a)(2) The authority of the agency head under (FAR) 48 CFR 22.1308(a)(2) to waive one or more (but not all) of the terms of the clause at (FAR) 48 CFR 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era, in accordance with (FAR) 48 CFR 22.1303(a) or (FAR) 48 CFR 22.1303(b) is delegated as follows:

(i) To the HCA or designee no lower than flag officer or SES level, if the waiver is for (FAR) 48 CFR 22.1303(a)(1);

(ii) To the SPE, if the waiver is for (FAR) 48 CFR 22.1303(a)(2); or

(iii) To the HCA, if the waiver is for (FAR) 48 CFR 22.1303(b)(1).

## **SUBCHAPTER 1222.14--EMPLOYMENT OF WORKERS WITH DISABILITIES**

### **1222.1403 Waivers.**

(a)(1) The authority of the agency head under (FAR) 48 CFR 22.1403(a)(1) to waive any or all of the terms of the clause at (FAR) 48 CFR 52.222-36, Affirmative Action for Handicapped Workers, for any contract if a waiver is deemed to be in the national interest is delegated to the HCA or designee, no lower than flag officer or SES level.

(a)(2) The authority of the agency head under (FAR) 48 CFR 22.1403(a)(2) to waive any or all

of the terms of the clause at (FAR) 48 CFR 52.222-36, Affirmative Action for Handicapped Workers, for groups or categories of contracts if a waiver is in the national interest is delegated to the SPE.

(b)(1) The authority of the head of a civilian agency under (FAR) 48 CFR 22.1403(b)(1) to waive any requirement in this subpart when it is determined that the contract is essential to the national security, and that its award without complying with such requirements is necessary to the national security is delegated to the HCA.

(c) The contracting officer shall write a D&F for signature by the approving official specified under TAM 1222.1403(a). The D&F shall be in the format of and as required by Appendix A. The D&F and the concurrence shall be retained in the contract file. The following procedures apply:

(1) When the approving official under (FAR) 48 CFR 22.1403 is the HCA, the OA shall communicate directly with the OFCCP to obtain OFCCP's written concurrence; and

(2) When the approving official under (FAR) 48 CFR 22.1403 is the SPE, the contracting officer shall forward the D&F through the appropriate channels to M-60 for signature. After signature, the contracting officer shall communicate directly with the OFCCP to obtain OFCCP's written concurrence.

#### **1222.1406 Complaint procedures.**

When oral complaints are received, contracting officers shall request that the nature of the complaint (e.g., by whom, against whom, the reason, etc.) signed by the plaintiff be submitted in writing directly to the OFCCP. Written complaints received by contracting officers shall be forwarded to the OFCCP by letter.

#### **1222.1408 Contract clause.**

(a)(2) The authority of the agency head under (FAR) 48 CFR 22.1408(a)(2) to waive all of the terms of the clause at (FAR) 48 CFR 52.222-36, Affirmative Action for Handicapped Workers, in accordance with (FAR) 48 CFR 22.1403(a) or (FAR) 48 CFR 22.1403(b) is delegated as follows:

(i) To the HCA or designee no lower than flag officer or SES level, if the waiver is for (FAR) 48 CFR 22.1403(a)(1);

(ii) To the SPE, if the waiver is for (FAR) 48 CFR 22.1403(a)(2); or

(iii) To the HCA, if the waiver is for (FAR) 48 CFR 22.1403(b)(1).

(b) The authority of the agency head under (FAR) 48 CFR 22.1408(b) to waive one or more (but not all) of the terms of the clause at (FAR) 48 CFR 52.222-36, Affirmative Action for Handicapped Workers, in accordance with (FAR) 48 CFR 22.1403(a) or (FAR) 48 CFR 22.1403(b) is delegated as follows:

(i) To the HCA or designee no lower than flag officer or SES level, if the waiver is for (FAR) 48 CFR 22.1403(a)(1);

(ii) To the SPE, if the waiver is for (FAR) 48 CFR 22.1403(a)(2); or

(iii) To the HCA, if the waiver is for (FAR) 48 CFR 22.1403(b)(1).

**DETERMINATION AND FINDINGS**

Authority to  
*{indicate what is being waived, exempted, granted, etc.}*

**FINDINGS**

1. *{Identify the contracting office, OA, and agency (i.e., DOT), what is being acquired, and the intended use of the product or service.}*
2. *{Include, as applicable or appropriate, the information required by (FAR) 48 CFR 1.704.}*

**DETERMINATION**

As *{insert the title of the approving official that must sign this document}*, I hereby determine that *{state the determination made (e.g., the contract is essential to the national security, one or more of the terms of a clause is waived, overtime is essential to meet delivery or performance schedules, etc.).}*

Date: *{Signature of the official making the determination}*

**SEMI-ANNUAL ENFORCEMENT REPORT**

The following semi-annual report of enforcement activity (Davis-Bacon and Related Acts and Contract Work Hours and Safety Standards Act) by {insert OA's name} is submitted as required by 29 CFR, Part 5.7(b), and All Agency Memorandum #80, dated April 9, 1969.

1. Period Covered: From \_\_\_\_\_ To \_\_\_\_\_
2. Number of prime contracts awarded: \_\_\_\_\_
3. Total dollar amount of prime contracts awarded: \_\_\_\_\_
4. Number of contractors/subcontractors against  
whom complaints were received: \_\_\_\_\_
5. Number of investigations completed: \_\_\_\_\_
6. Number of contractors/subcontractors found in  
violation: \_\_\_\_\_
7. Amount of wage restitution due:
  - a. Davis-Bacon and Related Acts \_\_\_\_\_
  - b. Contract Work Hours and Safety Standards Act \_\_\_\_\_
8. Number of employees due wage restitution under  
the Davis-Bacon and Related Acts and/or Contract  
Work Hours and Safety Standards Act: \_\_\_\_\_
9. Amount of liquidated damages assessed under the  
Contract Work Hours and Safety Standards Act: \_\_\_\_\_
10. Remarks: \_\_\_\_\_



**INSTRUCTIONS FOR COMPLETING THE SEMIANNUAL  
ENFORCEMENT REPORT**

1. Enter the beginning and ending dates of the period covered by the semiannual report.
2. Enter the number of prime contracts which are subject to the Davis-Bacon Act or any of the related statutes listed in 29 CFR Part 5, awarded by the OA and/or (where applicable) its operating and management contractors. Include federally assisted contracts subject to these Acts.
3. To the extent available, enter the total dollar amount of the contracts.
4. Enter the total number of contractors and subcontractors against whom complaints were received by your OA.
5. Enter the total number of full scale investigations completed by your OA. A full scale investigation is a complete and detailed investigation into the administration of labor standards provisions of the contract; do not include routine payroll checks. However, a full scale investigation may be one limited to some portion of a contractor's/subcontractor's operations, such as a single paving crew.
6. Enter the number of contractors and subcontractors found in violation as a result of the investigations reported in item 5 above. Do not count a contractor or subcontractor more than once in a single investigation because of a violation of more than one Act, or because more than one contract is included in the investigation.
7. Enter the total amount of wage restitution which your OA found due employees of the contractors/subcontractors reported in item 6 above, showing under (a) the amount found due because of violations of the Davis-Bacon and Related Acts and under (b) the amount of wage restitution found due because of violations of the Contract Work Hours and Safety Standards Act.
8. Enter the number of employees to whom the wage restitution reported in item 7 is due. This figure is the unduplicated count; that is, an employee due wage restitution as a result of an investigation shall be counted only once, regardless of the fact that the employee may be due wage restitution under the Davis-Bacon and Related Acts and also due wage restitution under the Contract Work Hours and Safety Standards Act.
9. Enter the total amount of liquidated damages assessed as a result of violations of the Contract Work Hours and Safety Standards Act, including any such amounts assessed by your OA as a result of investigations made by DOL.
10. Enter any explanation or comment considered necessary to a proper understanding of the report. A separate sheet may be attached if necessary.

**APPENDIX C**

**RESERVED**

## APPENDIX D

Department of Labor  
Office of Federal Contract Compliance Program  
*{Insert the address of the appropriate Region office from the Internet address in TAM Chapter 1202, Appendix B}*

This letter, or portions thereof, contains PROPRIETARY OR SOURCE SELECTION INFORMATION related to the conduct of a Federal agency procurement, the disclosure of which is restricted by Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423). The unauthorized disclosure of such information may subject both the discloser and recipient of the information to contractual, civil and/or criminal penalties as provided by law.

An Equal Employment Opportunity preaward clearance is requested on *{insert the name of the company}*

*{Insert all of the applicable information required by (FAR) 48 CFR 22.805(a)(4). The amount of the proposed contract(s) and subcontract(s), if any, shall not be disclosed. In lieu thereof, insert "\$10 million or more" as the estimated amount of the prime contract and first-tier subcontract(s). If the request is for clearance of the prime contractor, also advise OFCCP of the name(s) of the first-tier subcontractor(s) and the OFCCP office to whom the request for clearance was sent. If the request is for clearance of the first-tier subcontractor(s), advise OFCCP of the name of the prime contractor and the OFCCP office to whom the request for clearance was sent.}*

It is requested that verbal clearance and a written confirmation be provided as soon as possible to *{insert the name, title, and telephone number of the point of contact in the contracting office}*.

*{Insert name, title, and  
signature of authorized  
contracting person}*

Note: The first paragraph of the above letter is primarily for full and open competition acquisitions. The paragraph may be deleted or modified when requesting a preaward clearance for other than full and open competition acquisitions.



## **CHAPTER 1223**

### **ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

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##### **APPENDICES**

Appendix A	DOT Affirmative Procurement Program for Products Containing Recovered Materials
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## **SUBCHAPTER 1223.1--POLLUTION CONTROL AND CLEAN AIR AND WATER**

### **1223.103 Policy.**

(b) The Lists of Procurement Parties Excluded from Federal Procurement or Nonprocurement Programs (see EARL) (see (FAR) 48 CFR 9.404) identifies facilities declared ineligible by the Administrator of the Environmental Protection Agency (EPA) to receive Federal contracts based on non-compliance with clean air or water standards resulting in a conviction under the Clean Air Act, the Clean Water Act, and Executive Order (E.O.) 11738, "Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants, or loans."

### **1223.104 Exemptions.**

(c)(1) The authority of the agency head under (FAR) 48 CFR 23.104(c)(1) to grant a class exemption allowing contracts to be awarded that will involve the use of facilities listed by EPA as violating the Air Act or the Water Act is delegated to the SPE.

(c)(2) The authority of the agency head under (FAR) 48 CFR 23.104(c)(2) to notify the EPA Administrator of an individual exemption to allow a contract to be awarded that will involve the use of facilities listed by EPA as violating the Air Act or the Water Act is delegated to the HCA.

### **1223.106 Delaying award.**

The contracting officer shall submit all notifications initiated under (FAR) 48 CFR 23.106 to the EPA through the SPE.

### **1223.107 Compliance responsibilities.**

The authority of the agency head under (FAR) 48 CFR 23.107 to notify the EPA Administrator of any noncompliance with clean air or water standards in facilities used in performing nonexempt contracts is delegated to the HCA.

## **SUBCHAPTER 1223.2--ENERGY CONSERVATION**

### **1223.270 Energy savings performance contracts.**

Section 155 of the Energy Policy Act of 1992, Pub. L. 102-486, provides the authority and guidelines for Federal agencies in soliciting and awarding energy savings performance contracts. Such contracts are designed to reduce the consumption and cost of utilities in existing Federally owned buildings. See (TAR) 48 CFR Part 1217.71.

**1223.271 Purchase and use of environmentally-sound and energy efficient products and services.**

(a) The GSA FSS (see EARL) Recycled Products Guide identifies the recycled and recycled-content items available in the GSA FSS supply system. Copies of the guide may be obtained, without cost, from the GSA, Centralized Mailing List Service, P.O. Box 6477, Fort Worth, Texas, 76115, or by calling (817) 334-5215.

(b) OFPP Policy Letter No. 92-04, dated November 2, 1992 (see EARL), provides guidance to Federal agencies regarding the implementation of Section 6002 of RCRA and E.O. 12780, Federal Agency Recycling and the Council on Federal Recycling and Procurement Policy (see EARL).

(c) E.O. 12759, Federal Energy Management, dated April 19, 1991 (see EARL), requires agencies to select for procurement those energy consuming goods or products which are the most life cycle cost-effective (see (FAR) 48 CFR 7.101).

(1) To the extent practicable, each OA shall require vendors of goods or products to provide appropriate data that can be used to assess the life cycle cost of each good or product, including building energy system components, lighting systems, office equipment and other energy using equipment.

(2) In preparing solicitations and evaluating and selecting offers for award, contracting personnel shall consider the life cycle cost data along with other relevant evaluation criteria. If life cycle costing is not used, the contract file shall be documented to reflect the rationale for not obtaining and evaluating the data.

(d) E.O. 12844, Federal Use of Alternative Fueled Vehicles, dated April 21, 1993 (see EARL), requires agencies to acquire alternative fueled vehicles in excess of the goals previously established by the Energy Policy Act of 1992.

(e) E.O. 12845, Requiring Agencies to Purchase Energy Efficient Computer Equipment, dated April 21, 1993 (see EARL), requires, within 180 days from the date of the Order, that all microcomputers, including personal computers, monitors, and printers acquired by agencies shall be equipped with the energy efficient low-power standby feature as defined by the "EPA Energy Star" computers program. EPA Energy Star information may be obtained by calling 1-888-782-79374.

(f) E.O. 12843, Procurement Requirements and Policies for Federal Agencies for Ozone Depletion Substances, dated May 13, 1993 (see EARL), provides specific policies that agencies must follow in reducing the use and procurement of ozone depleting substances.

## **SUBCHAPTER 1223.4 -- USE OF RECOVERED MATERIALS**

### **1223.400 Scope of Subpart.**

(a) The DOT Affirmative Procurement Program (APP) for Products Containing Recovered Materials required by the Resource Conservation Act of 1976 (RCRA), as amended and Executive Order 12873 (see EARL), is set forth in Appendix A. The purpose of the DOT APP is to foster markets for recovered materials by maximizing the Federal Government's recycled products purchases. A secondary objective is to reduce the amount of solid waste requiring disposal through the purchase and use of products containing recovered materials.

### **1223.401 Authorities.**

(a) OFPP Policy Letter 92-4, dated November 2, 1992 (see EARL), establishes Executive branch policies for the acquisition and use of environmentally-sound, energy efficient products and services and provides guidance for agencies to implement Section 6002 of RCRA. OFPP Policy Letter 92-4 (see EARL) contains references to Executive Order 12780 (see EARL) which has been revoked by Executive Order 12873 (see EARL). However, the guidance provided by the Policy Letter is still in effect.

(b) Executive Order 12873 (see EARL) (Section 103 and Part 3) also requires the Presidential appointment of a Federal Environmental Executive (located in EPA) and the head of each Executive department agency designation of an Agency Environmental Executive. At DOT, the Assistant Secretary for Administration, M-1, has been designated these authorities and responsibilities.

(c) See FAR 23.702 for additional statutes and Federal directives applicable to the acquisition of environmentally preferable and energy-efficient products and services.

### **1223.402 Definitions.**

See Attachment 2 to Appendix A for supplemental FAR definitions.

### **1223.403 Policy.**

DOT has adopted the Environmental Protection Agency (EPA) guideline recommendations in implementing its APP for recovered materials. Program officials and contracting officers shall use product descriptions and prepare contract specifications reflecting cost-effective procurement and use of designated recycled products, encouraging bidders to supply products containing recycled materials. A program office initiating an acquisition has the responsibility for determining:



(1) Whether recovered materials should be included in the specifications for designated items; and

(2) Whether the statement of work and/or specification involve(s) the use of items subject to the DOT APP (Appendix A).

When purchasing EPA designated items, contracting officers shall purchase, to the maximum extent practicable, items composed of recovered material consistent with the specifications for EPA designated items as set forth in the DOT APP.

#### **1223.404 Procedures.**

(a) Applicability. Refer to Attachment 4 to Appendix A for any questions concerning the applicability of the APP to Federal, State or local agencies, and government contractors and private party recipients of Federal loans, grants, or funds.

The \$10,000 threshold applies to DOT-wide procurements and does not represent the purchase of any single OA. Agencies and supply centers are required to report purchases made from non-Governmental (commercial) sources. Forms will be furnished to OA procurement offices by OST, Office of Security and Administrative Management, M-40. Accordingly, when submitting agency annual reports under RCRA, OAs shall report all purchases of items covered under the DOT APP. Individual OA statistics will be combined into one DOT response to the Office of the Federal Environmental Executive and the Office of Federal Procurement Policy.

(b) EPA designated items. As mandated by RCRA Sec. 6002(e), EPA has developed and issued procurement guidelines for use by procuring agencies. The guidelines designate specific items containing recovered materials procuring agencies must purchase to the maximum extent practicable.

The DOT APP is based upon the minimum recovered material content standards developed by EPA which are set in such a way as to assure that the recovered materials content (and in the case of paper, the highest percentage of postconsumer recovered materials) is the maximum practicable without jeopardizing the intended use of the item, consistent with Federal procurement law. See EARL for a listing of EPA designated items and EPA's RMAN guideline for the minimum recovered material content standards for these items.

For technical information regarding RCRA or the EPA designated items, contact the RCRA Hotline at (800) 424-9346, or in the Washington, DC metropolitan area, (703) 412-9810.

(3) Program offices may request and contracting activities may purchase EPA designated items containing other than recovered materials as set forth in the DOT APP only if one of the conditions set forth in FAR 23.404(b)(3) applies. The program office is responsible for completing and forwarding the Recovered Materials Determination Form (see EARL) or a form

substantially the same when submitting a purchase to acquire EPA designated items from other than Federal supply sources and the Request for Waiver (see EARL) when submitting a purchase request to acquire EPA designated items containing other than recovered materials. Both forms must be signed by the cognizant program official and maintained in the procurement file.

(c) Agency designated items. At the discretion of the OA, items other than EPA designated items for which recovered material content shall be specified may be adopted.

## **SUBCHAPTER 1223.5--DRUG-FREE WORKPLACE**

### **1223.501 Applicability.**

(d) The authority of the agency head to determine the applicability of this subpart for contracts by law enforcement agencies under (FAR) 48 CFR 23.501(d) is delegated to the HOA.

### **1223.506 Suspension of payments, termination of contract, and debarment and suspension actions.**

(e) The authority of the agency head to waive a determination to suspend contract payments, terminate a contract for default, or debar or suspend a contractor under (FAR) 48 CFR 23.506(e) is nondelegable.

## **SUBCHAPTER 1223.7--CONTRACTING FOR ENVIRONMENTALLY PREFERABLE AND ENERGY-EFFICIENT PRODUCTS AND SERVICES**

### **1223.704 Policy.**

(a) DOT's cost-effective contracting preference program is established in the attached Affirmative Procurement Plan (Appendix A).

**DEPARTMENT OF TRANSPORTATION AFFIRMATIVE  
PROCUREMENT PROGRAM FOR RECOVERED MATERIALS**

I. General Policy. DOT has adopted the Environmental Protection Agency (EPA) minimum content standards in implementing this affirmative procurement program (APP) for recovered materials. These minimum content standards specify the minimum recovered materials content an item must contain to be considered for an award. The EPA recommended minimum content standards were set forth in the Recovered Materials Advisory Notice (RMAN) published in the Federal Register, Vol 60, on May 1, 1995. See EARL for an updated list of RMANs.

It is the policy of DOT to acquire designated items with recovered materials to the greatest extent practicable, to promote cost effective waste reduction and recycling of reusable materials from wastes generated by Federal activities, and to encourage economically efficient market demand for designated items produced using recovered materials by direct the immediate implementation of cost effective procurement preference program favoring the purchase of such items.

II. Affirmative Procurement Preference Program.

A. EPA Designated Items. EPA designates certain items which must meet the standard for recovered material content. An official list of these are found at 40 CFR 247.10-247.17. A list of these items is also located on the EPA website.

B. Future EPA Designated Items. This APP will be modified, as necessary, to incorporate future EPA designated items and minimum content standards.

C. Recovered Materials Determination Form (see EARL). In making the determinations required in TAM 1223.404(3), program offices shall use the format or substantially the same format as shown in the Recovered Materials Determination Form (see EARL). In developing plans, drawings, work statements, specifications, or other product descriptions, program offices shall consider the following factors: elimination of virgin material requirements, use of recovered materials, reuse of products, life-cycle cost, recyclability, use of environmentally preferable products, waste prevention (including toxicity reduction or elimination), and ultimate disposal, as appropriate. These factors should be used in acquisition planning for all procurements and in the evaluation and award of contracts (i.e., the bidder most able to cost-effectively satisfy the recovered material content specifications as well as the performance/design specifications outlined in the solicitation document).

D. Request for Waiver (see EARL). To request a waiver from the purchase of EPA designated items containing other than recovered materials, program offices and contracting officers shall use the format or substantially the same format as shown in EARL.

E. Federal Sources of Recycled and Environmental Products. Thousands of recycled and environmental products are available to procuring agencies through established Federal supply sources, and new items are continuously being added. Federal sources of EPA-designated items, and other recycled and environmental products include the General Services Administration (GSA) Federal Supply Service (FSS), Government Printing Office (GPO) and the Defense General Supply Center (DGSC). GSA FSS publishes various documents to assist in identifying and requisitioning recycled and environmental products. These documents are available on the GSA website (see EARL) and are available through Centralized Mailing List Service (CMLS), P.O. Box 6477, Fort Worth, TX 76115, phone: (817) 334-5215 FAX: (817) 334-5227.

F. Other Recycled and Environmentally Preferable Products. EPA's guidelines may not reflect those procured products or services most often used by DOT. Procurement originators are encouraged to request, procure, and use other products containing recovered materials in addition to those specified in this APP.

G. Life-Cycle Cost Analysis. OFPP Policy Letter 92-4 (see EARL) required Federal agencies to use life-cycle cost analysis, wherever feasible and appropriate, to assist in selecting products and services. At this time, life-cycle cost information for EPA designated items is not available. Until such information is developed and issued, OAs shall rely on minimum content standards of preference standards in EPA's guidelines (see EARL).

### III. Recovered Materials Promotion Program.

A. The DOT preference for recovered materials shall be incorporated into all applicable solicitations. This shall be accomplished by including explicit recovered material preference standards for EPA-designated items in appropriate solicitations for bids, statements of work, and during contract negotiations.

B. Each DOT procuring activity shall promote the DOT APP within its operation. The promotional program shall include at least the following:

(1) Procuring activities shall include in their CBD announcements a statement of the recycling and recovery requirements of the solicitation, if applicable;

(2) Contracting officers should seek from the marketplace and annotate their sources/bidders lists with information on vendors offering recovered products and services;

(3) Contracting officers should encourage each contractor under a value engineering program to look for savings opportunities which could be proposed; and

(4) Contracting officers shall promote the fact that they are seeking to buy recovered materials at pre-bid and pre-proposal conferences, where applicable.

#### IV. Procedures for Vendor Estimation and Certification.

A. Estimation. DOT's minimum content standards for EPA designated items shall be specified in the statement of work. Vendors responding to solicitations for EPA designated items must meet the minimum content standards; therefore a separate estimate from the vendor regarding the percentage of recovered materials in the product is not required unless the product exceed the minimum content standards specified.

B. Certification. Vendors/offerors are responsible for providing written certification to the contracting officer that their products meeting minimum content standards, maintaining copies of certification documents, and producing copies of the written certification upon request. (See FAR 23.405 for solicitation provisions and contract clauses.)

C. Verification. COCOs shall periodically review vendor certification documents as part of their review and monitoring processes. Such review shall enable DOT's Environmental Executive to verify DOT's compliance with Executive Order 12873 (see EARL).

D. Exclusions. Federal supply sources such as GSA, GPO, and DGSC have established their own estimation, certification, and verification procedures for EPA-designated items. Therefore, there is no requirement to conduct independent estimation, certification, and verification procedures.

#### V. Annual Review and Reporting.

A. Federal agencies are required, on an annual basis, to review the effectiveness of its affirmative procurement program and provide reports to the Federal Environmental Executive and to OFPP.

B. OFPP has devised a standard format for use in reporting affirmative procurement program effectiveness. The report shall be transmitted to M-40 for consolidation into a Departmental response, which has historically been due in December of each year. However, since the reporting format and due date of the report has changed over the years, M-40 will provide each OA an updated reporting format, if necessary, and the response date in writing in sufficient time for the OAs to respond in a timely manner.

VI. Waste Prevention. Executive Order 12783 (see EARL) encourages Federal agencies to implement waste prevention techniques, such as electronic transfer and double-sided copying, so that annual expenditures for recycled printing and writing paper do not exceed current annual budgets for paper products as measured by average annual expenditures. To this end, it DOT policy that a contractor submitting paper documents relating to an acquisition, should, if possible, submit those documents printed/copies double-sided on recycled paper (see FAR 4.303). The clauses at FAR 52.204-4, Printing/Copying Double-Sided on Recycled Paper, shall be inserted in solicitations and contracts greater than the simplified acquisition threshold.

**Attachment 1**

**RESERVED**

**1223-10**

**TAM**

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## DEFINITIONS

**Acquisition** - acquiring by contract using appropriated funds for supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, or demonstrated and evaluated. Acquisition begins when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation, selection of sources, contract award and financing details, contract performance and administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract. [EO 12873 (see EARL)]

**Affirmative Procurement Program (APP)** - a program assuring Guideline items composed of recovered materials will be purchased to the maximum extent practicable, consistent with Federal law and procurement regulations. [RCRA, section 6002]

**Case-by-Case Procurement** - open competition for contract awards among products made of virgin and recovered materials with preference being given to the latter (vice identifying minimum content standards required). [RCRA, section 6002]

**Certification** - provided by offerors/bidders/vendors, it is written documentation certifying the percentage of recovered materials contained in products or to be used in the performance of the contract is at least the amount required by applicable specifications or other contractual requirements. Certification on multi-component or multi-material products should verify the percentage of postconsumer waste and recycled material contained in the major constituents of the product. [EPA Guidelines (see EARL)]

**Cost-Effective Procurement Preference Program** - a procurement program favoring more environmentally-sound or energy-efficient products and services than other competing products and services, where price and other factors are equal. [OFPP Policy Letter 92-4 (see EARL)]

**Designated Item** - an available EPA guideline item or category of items, made with recovered material, advancing the purpose of RCRA when purchased. [RCRA, section 6002]

**Environmentally Preferable** - products or services having a lesser or reduced effect human health and the environment when compared with competing products or services, serving the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or product or service disposal. [EO 12873 (see EARL)]

**Environmentally-Sound** - a product or service less damaging to the environment when used, maintained, and disposed of in comparison to a competing product or service. [OFPP Policy Letter 92-4 (see EARL)]

**Estimation** - quantitative determination made by vendors of the total percentage of recovered material contained in offered products. Estimations should be based on historical or actual percentages of recovered materials in products sold in substantial quantities to the general public or on other factual basis. EPA recommends procuring agencies maintain records of these documents for three years by product type, quantity purchased, and price paid. [EPA Guidelines (see EARL)]

**Executive Agency or Agency** - an Executive agency as defined in 5 U.S.C. 105. For the purpose of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense. [EO 12873 (see EARL)]

**Federal Supply Source** - any supply source managed by a Federal agency such as the General Services Administration, Government Printing Office, or Defense General Supply Center.

**Life-Cycle Analysis** - the comprehensive examination of a product's environmental and economic effects throughout its lifetime including new material extraction, transportation, manufacturing, use, and disposal. [EO 12873 (see EARL)]

**Minimum Content Standard** - the minimum recovered material content specifications set to assure the recovered material content required is the maximum available without jeopardizing the intended item use or violating the limitations of the minimum content standards set forth by EPA's guidelines. [RCRA, section 6002]

**Performance Specification** - a specification stating the desired product operation or function but not specifying its construction materials. [EPA Guidelines (see EARL)]

**Postconsumer Material** - a material or finished product whose life as a consumer item has concluded, after having served its intended use and being discarded for disposal or recovery. "Postconsumer material" is a part of the broader category of "recovered materials". [EO 12873 (see EARL)]

**Postconsumer Waste** - a material or product, discarded for disposal after passing through the hands of a final user, having served its intended purpose. Postconsumer waste is part of the broader category "recycled material." [OFPP Policy Letter 92-4 (see EARL)] and 49 CFR 247.101(e)]

**Practicable** - capable of performing in accordance with applicable specifications, available at a reasonable price and within a reasonable period of time, and while a satisfactory level of competition with other products is being maintained. [EPA Guidelines (see EARL)]

**Preference** - when two products or services are equal in performance characteristics and price, the Government, in making purchasing decisions, will favor the more environmentally-sound or energy-efficient product. [OFPP Policy Letter 92-4 (see EARL)]



**Preference Standard** - the highest practicable minimum content standards for products. When minimum content is impractical to calculate, preference is for the presence of a recovered material or an environmentally-preferable trait (i.e., retread tires).

**Procurement Guidelines** - regulations issued by EPA pursuant to section 6002 of RCRA: (1) identifying items produced (or can be produced) with recovered materials and where procurement of such items will advance the objectives of RCRA; and (2) providing recommended practices for the procurement of such items. [RCRA, section 6002]

**Procuring Agency** - any Federal or State agency, or agency of a state's political subdivision using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract. [EPA Guidelines (see EARL)]

**Recovered Material** - waste materials and by-products recovered or diverted from solid waste, excluding those materials and by-products generated from, and commonly reused within, an original manufacturing process. [EO 12873 (see EARL) and 42 U.S.C. 6903 (19)]

**Recyclability** - the degree to which a product or material may be recovered or otherwise diverted from the solid waste stream for the purpose of recycling. [EO 12873 (see EARL)]

**Recycled Material** - a material utilized in place of raw or virgin material in product manufacturing consisting of materials derived from postconsumer waste, industrial scrap, material derived from agricultural wastes, and other items, all of which can be used in new product manufacture. [EPA Guidelines (see EARL) and OFPP Policy Letter 92-4 (see EARL)]

**Recycling** - the series of activities, including collection, separation, and processing, by which materials are recovered from the solid waste stream for use as raw materials in the manufacture of new products (other than fuel for producing heat or power by combustion). [EO 12873 (see EARL)]

**Solid Waste** - garbage, refuse, sludges, and other discarded solid materials, including those from industrial, commercial, and agricultural operations, and from community activities. This *excludes* solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flow, etc.. [EPA Guidelines (see EARL)]

**Specification** - a clear and accurate description of the technical requirements for materials, products, or services including the minimum requirement for materials' quality and construction and any equipment necessary for an acceptable product. In general, specifications are in the form of written descriptions, drawings, prints, commercial designations, industry standards, and other descriptive references. [EPA Guidelines (see EARL)]

**Unreasonable Price** - when recycled product cost is greater compared to virgin material cost. (Unreasonable price is not a factor when minimum content standards are specified in the

statement of work/procurement request, because price estimates will only be obtained from vendors who can supply products meeting recovered material content requirements.)

**Verification** - procedures used by procuring agencies to confirm both vendor estimates and certifications of the percentages of recovered material contained in the products supplies to them or to be used in the performance of a contract. [EPA Guidelines (see EARL)]

**Virgin Material** - a mined or harvested raw material to be used in manufacturing. [EPA Guidelines (see EARL)]

**Waste Prevention** - (also known as "source reduction") any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their toxicity before they become municipal solid waste. Waste prevention also refers to the reuse of products or materials. [Executive Order 12873 (see EARL)]

**Waste Reduction** - preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products. [Executive Order 12873 (see EARL)]

**RESERVED**

## APPLICABILITY

### General:

Section 6002(a) of RCRA and EPA's procurement guidelines apply to all procuring agencies, defined as "any Federal agency, or an State agency, or agency of a political subdivision of a State which uses appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract." The Applicability Key set forth below:

- First determines those parties responsible for developing and implementing an APP and those responsible for APP compliance. DOT as a Federal agency has developed a comprehensive APP (TAM 1223, Appendix A), which shall be implemented by all OA program offices, operations offices, sites and applicable contractors. OAs must take steps to carry out DOT's comprehensive APP.

- Second, EPA's procurement guidelines only apply to an agency whose total annual purchases (for each designated item) equal \$10,000 or more, or when the procuring agency purchased \$10,000 or more of the item (or of a functionally equivalent item) during the preceding year. Thus, the procurement requirements identified in EPA's guidelines apply to DOT as a whole and all OA program offices, operations offices, sites, and applicable contractors shall be responsible for implementing the procurement requirements outlined in both this document and EPA's guidelines.

### Contractors:

DOT's APP and this guidance shall only apply to such contractors as long as appropriate provisions are contained in the contracts. It is the responsibility of each OA to ensure that appropriate existing contracts are revised to include APP compliance provisions, and appropriate new contracts contain APP compliance provisions (FAR 52.204-4, 52.223-4, 52.223-8, 52.223-9).

Nothing in DOT's APP would preclude a DOT contractor from voluntarily implementing an APP until such time as provisions are incorporated into the contract.

### State and Local Agencies:

State and local agencies purchasing more than \$10,000 worth of a particular EPA-designated item in a year, and using some Federal funds for these purchases, are required to establish an APP for those particular items. The APP must include the four elements specific by Section 6002 of RCRA: (1) a preference program; (2) a promotion program; (3) estimation, certification, and verification procedures; and (4) procedures for annual review and monitoring.

## **APPLICABILITY KEY**

### **1. Are you a procuring agency?**

RCRA Section 1004(17) defines a procuring agency as "any Federal agency, or any State agency or agency of a political subdivision of a State using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract."

- Federal agencies are always procuring agencies.
- A State or local agency is a procuring agency when it uses appropriated Federal funds for a procurement.
- A contractor is a procuring agency when it is contracting with a Federal agency or State or local agency using appropriated Federal funds for a procurement.
- Only Government agencies and their contractors are or can become "procuring agencies."

Private party recipients of Federal loans, grants, or funds under cooperative agreements are not procuring agencies.

### **2. Are you purchasing or acquiring a designated item?**

### **3. Are you purchasing \$10,000 or more of a designated item or did you purchase at least \$10,000 of a designated item in the preceding fiscal year?**

RCRA Section 6002(a) requires "a procuring agency shall comply with the requirements set forth in this section and any regulations issued under this section, with respect to any purchase or acquisition of a procurement item where the purchase price of the item exceeds \$10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was \$10,000 or more."

- The \$10,000 threshold applies to each procuring agency as a whole.
- If a procuring agency has determined it purchased \$10,000 worth of a designated item or functionally equivalent items during the preceding year, it is subject to RCRA Section 6002. If so, the requirements apply to all purchases of these items occurring in the current fiscal year.
- If the procuring agency did not procure \$10,000 worth of a designated item in the preceding fiscal year, it is not subject to RCRA Section 6002, unless, in the current fiscal year, it purchases \$10,000 or more of a designated item in a single procurement action. If so, the

requirements apply to the single procurement and to all subsequent purchases of the designated item made during the current fiscal year.

<sup>1</sup>Source: EPA Office of Solid Waste; please refer questions to the EPA Hotline number 1-800-424-9346 or in the Washington DC area 703-412-9810.

**TRANSPORTATION ACQUISITION MANUAL**

**CHAPTER 1224**

**PROTECTION OF PRIVACY AND  
FREEDOM OF INFORMATION**

**(RESERVED)**





## **CHAPTER 1225**

### **FOREIGN ACQUISITION**

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- 1225.105 Evaluating offers.

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- 1225.402 Policy.

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- 1225.901 Omission of Audit clause.

##### **SUBCHAPTER 1225.1--BUY AMERICAN ACT--SUPPLIES**

###### **1225.102 Policy.**

(a)(3) The authority of the agency head to determine that domestic preference would be inconsistent with the public interest is delegated to the HOA.

(b)(2) The authority of the HCA to make a nonavailability determination under FAR 25.102(a)(4) for any circumstance other than that specified in FAR 25.102(b)(1) is delegated to the COCO.

###### **1225.105 Evaluating offers.**

The authority of the agency head to determine that evaluation of offers under a foreign acquisition will differ from the procedures in FAR 25.105 is delegated to the COCO.

## **SUBCHAPTER 1225.2--BUY AMERICAN ACT--CONSTRUCTION MATERIALS**

### **1225.202 Policy.**

(a)(3) The authority of the agency head to determine that application of the restrictions of the Buy American Act to a particular construction material would be impracticable is delegated to the COCO.

## **SUBCHAPTER 1225.3--BALANCE OF PAYMENTS PROGRAM**

### **1225.302 Policy.**

(b)(2) The authority of the agency head to determine that perishable subsistence items may be acquired for use outside the United States if delivery from the United States would significantly impair their quality at the point of consumption is delegated to the contracting officer.

(b)(3) The authority of the agency head to determine that a requirement can only be filled by a foreign end product or service, and that it is not feasible to forgo filling it or to provide a domestic substitute is delegated to the COCO.

(c) The authority of the agency head to determine that a differential greater than 50 percent may be used is delegated to the COCO.

### **1225.304 Excess and near-excess foreign currencies.**

(a) M-60 will distribute, as necessary, OMB Bulletins containing a listing of the countries for which the United States holds currencies.

(c) The authority of the agency head to determine the feasibility of using excess or near-excess foreign currency is delegated to the HCA. This authority may not be redelegated below the HCA level.

## **SUBCHAPTER 1225.4--TRADE AGREEMENTS**

### **1225.402 Policy.**

(a)(1) M-60 will distribute, as necessary, Federal Register issuances which contain the dollar thresholds set by the U.S. Trade Representative for application of the Trade Agreements Act. The current dollar thresholds are \$186,000 for supply and services contracts and \$7,143,000 for construction contracts, and were effective on January 1, 1998.

## **SUBCHAPTER 1225.9--ADDITIONAL FOREIGN ACQUISITION CLAUSES**

### **1225.901 Omission of audit clause.**

(c) *Conditions for use of Alternate III.* The authority of the agency head to determine, with the concurrence of the Comptroller General, that waiver of the right to examination of records by the Comptroller General will serve the public interest is delegated to the HCA. This authority cannot be redelegated below the HCA level.



**TRANSPORTATION ACQUISITION MANUAL**

**CHAPTER 1226**

**OTHER SOCIOECONOMIC PROGRAMS**

**(RESERVED)**



## **CHAPTER 1227**

### **PATENTS, DATA, AND COPYRIGHTS**

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##### **SUBCHAPTER 1227.4--RIGHTS IN DATA AND COPYRIGHTS**

- 1227.404 Basic rights in data clause.

##### **SUBCHAPTER 1227.2--PATENTS**

**1227.203 Patent indemnification of Government by contractor.**

**1227.203-6 Clause for Government waiver of indemnity.**

The authority of the agency head under (FAR) 48 CFR 27.203-6 to approve the exemption of one or more specific United States patents from the patent indemnity clause is delegated to the COCO, after coordination with legal counsel.

##### **SUBCHAPTER 1227.3--PATENT RIGHTS UNDER GOVERNMENT CONTRACTS**

**1227.302 Policy.**

The authority of the agency head under (FAR) 48 CFR 27.302(a) to promote the commercialization, in accord with the Presidential Memorandum on Government Patent Policy dated February 18, 1983, of patentable results of federally funded research by granting to all contractors, regardless of size, the title to patents made in whole or in part with Federal funds, in exchange for royalty-free use by or on behalf of the Government is delegated to the HOA.

### **1227.303 Contract clauses.**

(a)(3), (b)(2), (c)(3), and (d)(1)(ii) The authority of the agency head under (FAR) 48 CFR 27.303(a)(3), (b)(2), (c)(3), and (d)(1)(ii) to determine at the time of contracting that it would be in the national interest to acquire the right to sublicense foreign governments or international organizations pursuant to any existing or future treaty or agreement is delegated to the HCA.

### **1227.304 Procedures.**

#### **1227.304-1 General.**

(a)(3) The authority of the agency head under (FAR) 48 CFR 27.304-1(a)(3) to make a decision on the contractor's appeal of the agency determination is delegated to the COCO, after coordination with legal counsel.

(a)(5) The authority of the agency head under (FAR) 48 CFR 27.304-1(a)(5) to receive a written findings of fact along with a recommended decision is delegated to the COCO, after coordination with legal counsel.

(a)(7) The authority of the agency head under (FAR) 48 CFR 27.304-1(a)(7) to make a decision based on the facts found, together with any argument submitted by the contractor, agency officials, or any other information in the administrative record is delegated to the COCO, after coordination with legal counsel.

(b) The authority of the agency head under (FAR) 48 CFR 27.304-1(b) to grant requests for greater rights provided the agency head determines that the interests of the United States and the general public will be better served is delegated to the COCO, after coordination with legal counsel.

(g)(2) The authority of the agency head under (FAR) 48 CFR 27.304-1(g)(2) to issue a written notice to the contractor and its assignee or exclusive licensee, as applicable and if known to the agency, stating that the Government has determined to exercise march-in rights is delegated to the COCO, after coordination with legal counsel.

(g)(3) The authority of the agency head under (FAR) 48 CFR 27.304-1(g)(3) regarding whether the information presented by the contractor in opposition to the proposed march-in raises a genuine dispute over the material facts and is undertaken by the agency head or referred to another official for fact-finding is delegated to the COCO, after coordination with legal counsel.

(g)(5) The authority of the agency head under (FAR) 48 CFR 27.304-1(g)(5) to receive written findings of fact from the official conducting the fact-finding; to receive written arguments from the contractor; and, to preside over oral arguments before making the final determination is delegated to the COCO, after coordination with legal counsel.



(g)(6) The authority of the agency head under (FAR) 48 CFR 27.304-1(g)(6) to determine whether march-in rights will be exercised is delegated to the COCO, after coordination with legal counsel.

**1227.305-4 Conveyance of invention rights acquired by the Government.**

(b) When a contractor discloses an invention under a contract, the contracting officer shall consult with the OA Patent Counsel to determine the proper action to be taken. If the OA does not have a Patent Counsel, then the DOT Patent Counsel (C-15) shall be consulted before proceeding.

**1227.306 Licensing background patent rights to third parties.**

(a) and (b) The authority of the agency head under (FAR) 48 CFR 27.306(a) and (b) regarding whether to license background patent rights to third parties is non-delegable.

**SUBCHAPTER 1227.4--RIGHTS IN DATA AND COPYRIGHTS**

**1227.404 Basic rights in data clause.**

(h) The authority of the HCA under (FAR) 48 CFR 27.404(h) to concur with the contracting officer's determination that the markings of data are not authorized is delegated to the COCO.



## **CHAPTER 1228**

### **BONDS AND INSURANCE**

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##### **SUBCHAPTER 1228.1--BONDS**

###### **1228.101 Bid guarantees.**

###### **1228.101-1 Policy on use.**

(c) The authority of the agency head, to authorize a class waiver from the requirement to obtain a bid guarantee when a performance bond or a performance and payment bond is required, if it is determined that a bid guarantee is not in the best interest of the Government, is delegated to the HCA.

###### **1228.105 Other types of bonds.**

The authority of the HCA, to approve using other types of bonds in connection with acquiring particular supplies or services, is delegated to the contracting officer.

## **1228.106 Administration.**

### **1228.106-2 Substitution of surety bonds.**

(a) The authority of the HCA, to approve the substitution of a new surety bond covering all or part of the obligations on a bond previously approved, is delegated to the contracting officer.

### **1228.106-6 Furnishing information.**

(c) The authority of the head of the agency, to furnish to the requestor, a certified copy of the payment bond and the contract for which it was given and to determine the reasonable and appropriate costs to be paid by the requestor for the preparation of the copies, is delegated to the contracting officer.

## **SUBCHAPTER 1228.2--SURETIES**

### **1228.202 Acceptability of corporate sureties.**

(d) Department of the Treasury's Listing of Approved Sureties (Department Circular 570) (see EARL) is published annually on July 1. Interim changes are published in the Federal Register as they occur and may be obtained at the address shown in (FAR) 48 CFR 28.202(d).

### **1228.203 Acceptability of individual sureties.**

(g) Contracting officers shall refer evidence of possible criminal or fraudulent activities by an individual surety to legal counsel for review and further action.

### **1228.203-7 Exclusion of individual sureties.**

(a) The authority of the agency head, to exclude an individual from acting as a surety on bonds submitted by offerors on a procurement by the executive branch of the Federal Government, is delegated to the HCA.

(d) The authority of the head of the agency, to state in writing the compelling reasons justifying acceptance of a bond from an individual surety whose name is on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, is delegated to the HCA.

### **1228.204 Alternatives in lieu of corporate or individual sureties.**

#### **1228.204-370 Irrevocable letters of credit (ILC).**

OFPP Policy Letter 91-4, Use of Irrevocable Letters of Credit (see EARL), dated November 8, 1991, authorizes the use of irrevocable letters of credit, in lieu of sureties, on Federal

construction contracts requiring Miller Act bonds. OFPP Pamphlet No. 7, "Guidance for Implementing Policy Letter 91-4," is available from the OMB, Office of Publications, at (202) 395-7332. The pamphlet includes a listing of services provided by bank rating companies, responsibilities of the Government and its contractors, as well as sample letters of credit forms.

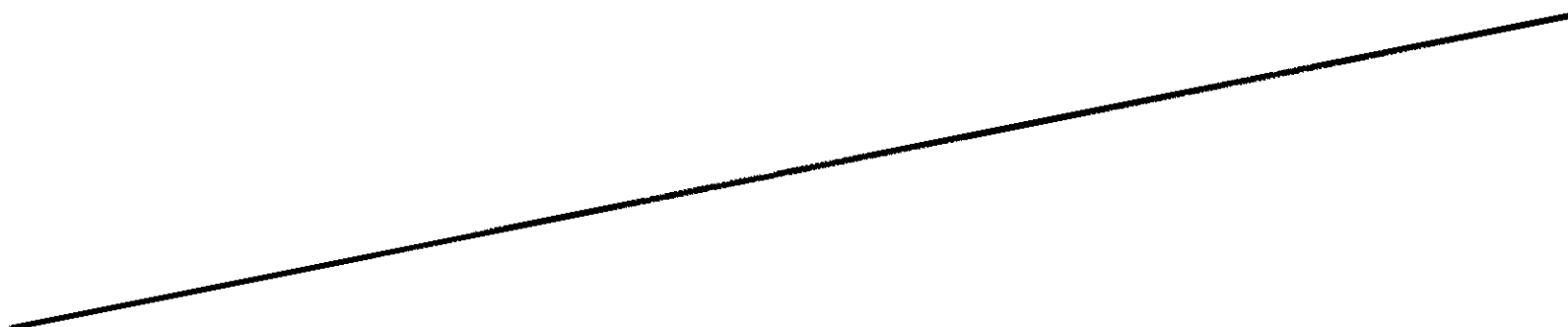
### **SUBCHAPTER 1228.3--INSURANCE**

#### **1228.305 Overseas workers' compensation and war hazard insurance.**

(d) The authority of the agency head, to recommend to the Secretary of Labor waiver of the applicability of the Defense Base Act to any contract, subcontract, work location, or classification of employees, is delegated to the HCA.

#### **1228.311-1 Contract clause.**

The authority to waive the requirement for use of (FAR) 48 CFR 52.228-7, Insurance Liability to Third Persons, in solicitations and contracts, other than those for construction and when a cost reimbursement contract is contemplated, is delegated to one level above the contracting officer.



## **CHAPTER 1229**

### **TAXES**

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##### **SUBCHAPTER 1229.1--GENERAL**

###### **1229.101 Resolving tax problems.**

(a) For the purpose of (FAR) 48 CFR 29.101, the designated legal counsel is the OA legal counsel.

(b) As a minimum, contracting officers shall seek the advice of the OA legal counsel, when the following problems or circumstances exist:

(1) When tax problems cannot be resolved in accordance with the policy and procedures of (FAR) 48 CFR Part 29;

(2) When the Department of Justice must be consulted for representation or intervention in proceedings concerning taxes;

(3) When a state or local tax appears to have a direct effect on an interstate commerce transaction;

(4) When a judicial or administrative action against the contractor is threatened;

(5) When an actual or potential tax is imposed which resulted from an amendment to a tax law or a change made by tax authorities;

(6) When there is a possibility that paid taxes will be refunded; and

(7) When a problem concerns actual or potentially large sums of taxes.

(c) All problems forwarded to the OA's legal counsel for review and/or resolution shall be accompanied by the following:

(1) A copy of the contract, when applicable;

(2) A comprehensive statement of the facts, any substantiating documents or correspondence, the legal issues, and recommended course of action, if any; and

(3) When applicable, a statement concerning the effect the problem has or will have on existing acquisition policy and procedures, and any recommended changes to them. Any recommended changes to DOT policy or procedures concerning taxes shall be transmitted through appropriate channels to the SPE for action.

#### **SUBCHAPTER 1229.3--STATE AND LOCAL TAXES**

##### **1229.303 Application of State and local taxes to Government contractors and subcontractors.**

The authority of the agency head under (FAR) 48 CFR 29.303(a) is delegated to the HCA. The HCA shall coordinate with the OA's legal counsel on all matters concerning the designation of prime contractors and subcontractors as agents of the Government for the purpose of claiming immunity from State and local sales or use taxes.

#### **SUBCHAPTER 1229.4--CONTRACT CLAUSES**

##### **1229.401 Domestic contracts.**

##### **1229.401-6 New Mexico gross receipts and compensating tax.**

(c) *Participating agencies.* DOT signed an agreement with the State of New Mexico Taxation and Revenue Department (see EARL), on January 18, 1990.



## **CHAPTER 1230**

### **COST ACCOUNTING STANDARDS ADMINISTRATION**

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##### **SUBCHAPTER 1230.2--CAS PROGRAM REQUIREMENTS**

###### **1230.201 Contract requirements.**

###### **1230.201-5 Waivers.**

(a) The Cost Accounting Standards Board (CASB) has delegated the authority to waive (FAR) 48 CFR Appendix B, 9904.412-40(c), Assignment of pension cost, to the SPE without power of redelegation. This delegation is effective in instances in which the overfunded status of qualified pension plans precluded Federal tax deductibility of contributions, or would have caused the incurrence of a 10 percent excise tax on such overfunding.

(b) Waiver requests to 9904.412-40(c), Assignment of pension cost, are to be submitted to M-60, in accordance with (FAR) 48 CFR 1.4 and TAM 1201.470, and include an assessment of the respective interest of both the Government and the contractor in terms of the achievement of equitable contract costing. M-60 will process the waiver and, pursuant to OFPP requirements, provide a copy of approved waivers to the CASB Executive Secretary.

(c) The Cost Accounting Standards Board has delegated the authority to waive the application of the Cost Accounting Standards to individual firm fixed-price contracts for the acquisition of commercial items. This authority is delegated to the Heads of Contracting Activities without power of redelegation.

###### **1230.202 Disclosure requirements.**

###### **1230.202-2 Impracticality of submission.**

The authority of the agency head to determine that is impractical to secure the Disclosure Statement and authorize contract award under (FAR) 48 CFR 30.202-2 is nondelegable.



## **CHAPTER 1231**

### **CONTRACT COST PRINCIPLES AND PROCEDURES**

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#### **1231.101 Objectives.**

The authority of the agency head under (FAR) 48 CFR 31.101 is delegated to the SPE. Individual and class deviations concerning the cost principles shall be submitted to M-60 in accordance with (FAR) 48 CFR 1.4 and TAM 1201.4. M-60 will process the deviation and, pursuant to (FAR) 48 CFR 31.101, forward the request to the Civilian Agency Acquisition Council.

#### **1231.109 Advance agreements.**

See TAM 1231.205-32.

##### **SUBCHAPTER 1231.2--CONTRACTS WITH COMMERCIAL ORGANIZATIONS**

#### **1231.205 Selected costs.**

#### **1231.205-32 Precontract costs.**

(a) The use of an "advance agreement," "anticipatory costs," or any other type of "if and when" statement as a vehicle to authorize precontract costs is inappropriate. However, such documents may be used to establish agreement on the treatment of precontract costs (e.g., effort to be performed, amount to be reimbursed if a contract is awarded). Such documents may only be used in exceptional circumstances where a written approval has been granted by the COCO. The request for COCO approval shall include:

(1) Identification of the requirement and a brief description of the work for which precontract costs are necessary;

(2) A statement that all statutory and regulatory actions required to justify source selection has occurred;

(3) Name of the prospective contractor;

(4) Total amount of precontract costs involved and a statement that the funds necessary to cover this amount have been provided to the contracting officer;

(5) Total estimated time of the effort requiring precontract costs;

(6) Justification for why it is necessary for the contractor to proceed prior to contract award; and

(7) A statement that the contracting officer advises the prospective contractor that incurrence of precontract costs is solely at its own risk and that in the event negotiations do not result in a contract, the Government shall be under no obligation to reimburse the contractor for precontract costs.

## **CHAPTER 1232**

### **CONTRACT FINANCING**

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## **SUBCHAPTER 1232.006--REDUCTION OR SUSPENSION OF CONTRACT PAYMENTS UPON FINDING OF FRAUD**

### **1232.006-3 Responsibilities.**

(a) The authority to develop specific procedures under (FAR) 48 CFR 32.006-3(a) is delegated to the DOT Office of Inspector General.

### **1232.006-4 Procedures.**

(a) The remedy coordination official for DOT is the Inspector General.

## **SUBCHAPTER 1232.1--NON-COMMERCIAL ITEM PURCHASE FINANCING**

### **1232.102 Description of contract financing methods.**

(e)(2) Progress payments based on a percentage or stage of completion are authorized only under contracts for construction, alteration, and repair, shipbuilding, and architect-engineering. Contracting officers shall ensure that the payments are commensurate with the work and that the work meets the requirements of the contract. When contracting officers propose to make these types of payments under other contracts, a written D&F in the format of Appendix A shall be signed by the HCA. The D&F must indicate the reasons why progress payments based on costs cannot be practically used and why it is feasible to administer progress payments based on a percentage or stage of completion.

### **1232.105 Uses of contract financing.**

(a)(2) DOT is not listed under (FAR) 48 CFR Part 32 as a loan guaranteeing agency; therefore, the exceptions under (FAR) 48 CFR 32.105(a) do not apply to DOT.

## **SUBCHAPTER 1232.2--COMMERCIAL ITEM PURCHASE FINANCING**

### **1232.206 Solicitation provisions and contract clauses.**

(g) The authority to develop agency procedures under (FAR) 48 CFR 32.206 is delegated to the HCA.

(g)(2) The authority to develop agency procedures under (FAR) 48 CFR 32.206 is delegated to the HCA.

## **SUBCHAPTER 1232.4--ADVANCE PAYMENTS FOR NON-COMMERCIAL ITEMS**

### **1232.402 General.**

(c)(1)(iii)(A) When the proposed advance payment will be \$500,000 or less, the authority of the agency head under (FAR) 48 CFR 32.402(c)(1)(iii)(A) to determine, based on written findings, that the advance payment is in the public interest is delegated to the contracting officer. When the advance payments will be over \$500,000, the authority is delegated to the COCO.

(c)(1)(iii)(B) When the proposed advance payment will be \$50,000 or less, the authority of the agency head under (FAR) 48 CFR 32.402(c)(1)(iii)(B) to determine, based on written findings, that the advance payment facilitates the national defense is delegated to the contracting officer. When the proposed advance payment will be over \$50,000, the authority is delegated to the DOT Board of Contract Appeals (DOTBCA). The contracting officer shall make a recommendation for approval or disapproval to the DOTBCA (S-20).

(e)(2) When the contracting officer proposes to provide advance payments to a contractor, the requisitioning office, legal counsel, and finance office shall be consulted prior to writing the D&F required by (FAR) 48 CFR 32.402(c)(1)(iii). The D&F shall be written in the format of (FAR) 48 CFR 32.410.

### **1232.404 Exclusions.**

(a)(9) Unless otherwise approved by M-60, no other types of transactions are excluded from the requirements of (FAR) 48 CFR Subpart 32.4.

### **1232.407 Interest.**

(d) Contracting officers are authorized, subject to the approval of the appropriate official shown below, only to exclude interest from advance payments on the contracts listed under (FAR) 48 CFR 32.407(d). The authority of the agency head under (FAR) 48 CFR 32.407(d) is delegated as follows:

(1) To the contracting officer, when no interest will be charged on advance payments of \$500,000 or less under the authority of (FAR) 48 CFR 32.402(c)(1)(iii)(A);

(2) To the COCO, when no interest will be charged on advance payments over \$500,000 under the authority of (FAR) 48 CFR 32.402(c)(1)(iii)(A);

(3) To the contracting officer, when no interest will be charged on advance payments of \$50,000 or less under the authority of (FAR) 48 CFR 32.402(c)(1)(iii)(B); and



(4) To the DOTBCA, when no interest will be charged on advance payments over \$50,000 under the authority of (FAR) 48 CFR 32.402(c)(1)(iii)(B).

#### **1232.409 Contracting officer action.**

##### **1232.409-1 Recommendation for approval.**

After review by counsel, the D&F and the other items mentioned under (FAR) 48 CFR 32.409-1 shall be forwarded through appropriate channels to the approving official (see TAM 1232.402) for review and approval. Contracting officers shall also discuss the proposed payments with the applicable finance office to ensure compliance with all Department of Treasury regulations governing these payments.

##### **1232.409-2 Recommendation for disapproval.**

Contracting officers shall transmit the information required by (FAR) 48 CFR 32.409-2 through appropriate channels to the approving official under TAM 1232.402 for review and approval of the recommendation to disapprove the request for advance payment.

### **SUBCHAPTER 1232.5--PROGRESS PAYMENTS BASED ON COSTS**

#### **1232.501 General.**

##### **1232.501-2 Unusual progress payments.**

(a)(3) The authority of the HCA under (FAR) 48 CFR 32.501-2(a)(3) to approve the contractor's request for unusual progress payments is delegated to the COCO.

#### **1232.502 Preaward matters.**

##### **1232.502-2 Contract finance office clearance.**

Contracting officers shall obtain written approval and coordination from the officials named below before taking any of the following actions:

(a) From the COCO, to provide a progress payment rate higher than the customary rate (see (FAR) 48 CFR 32.501-1);

(b) From the COCO, to deviate from the progress payment terms prescribed in (FAR) 48 CFR Part 32; and

(c) When providing progress payments to a contractor--

(1) From the COCO (with advice from OA legal counsel), when the contractor's financial condition is in doubt;

(2) From the COCO (with advice from OA legal counsel), when the contractor has had an advance payment request or loan guarantee denied for financial reasons (or approved but withdrawn or lapsed) within the previous 12 months; and

(3) From the HCA (with advice from OA legal counsel), when the contractor is named in the consolidated list of contractors indebted to the United States (known commonly as the "Hold-up List").

#### **1232.504 Subcontracts.**

(c) The contracting officer shall obtain approval from the COCO to authorize contractors to make unusual progress payments to subcontractors. A written D&F is not required; however, if the contractor's request to make unusual progress payments is granted, the contract file shall be documented to reflect the rationale for the decision.

### **SUBCHAPTER 1232.6--CONTRACT DEBTS**

#### **1232.601 Definition.**

Contracting officers shall administer the collection of contract debts and applicable interest in accordance with DOT Order 2700.14 series, Credit Management and Debt Collection, as implemented by OA procedures, if any. If OA procedures do not exist, contracting officers shall consult with their finance office concerning debt collection.

#### **1232.614 Interest.**

##### **1232.614-1 Interest charges.**

(a)(3) The contracting officer shall consult with the OA's finance office concerning contractor's debts that may be exempt from interest charges.

#### **1232.617 Contract clause.**

(a)(7) The contracting officer shall consult with the OA's finance office concerning other exceptions that may apply to interest on payments due to the Government by the contractor.

### **SUBCHAPTER 1232.7--CONTRACT FUNDING**

#### **1232.702 Policy.**

### **1232.702-70 Procurement requests.**

(a) The contracting officer shall obtain a Form DOT F 4200.1, Procurement Request-Process Rapidly (PR) and Form DOT F 4200.2, Procurement Request Continuation Sheet, from the requiring office prior to executing any contract as defined under (FAR) 48 CFR 2.101. The following requirements apply:

(1) The PR must be certified by a responsible fiscal authority (i.e., funds administrator or finance office).

(2) The PR must be supported by an independent Government estimate as required by TAM 1215.404-70.

(3) The PR must meet the requirements of (FAR) 48 CFR 19.804-2(a)(10) when a specific 8(a) firm is nominated to perform the work.

(b) Contracting officers shall reject any PR that fails to provide the above information and any other information the contracting officer deems necessary to carry out the acquisition.

(c) In the case of oral orders (e.g., orders against blanket purchase agreements) and Government credit cards, the person authorized to place the order shall obtain written assurance from a responsible fiscal authority that funds are available prior to placing the order.

### **1232.703-3 Contracts crossing fiscal years.**

(b) The authority of the agency head to enter into a basic contract, options, or orders under that contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the basic contract, options or orders under that contract does not exceed one year each is delegated to the COCO with further authority to redelegate.

### **1232.770 Volpe National Transportation Systems Center Working Capital Fund.**

(a) 49 U.S.C. 328 authorizes a DOT Working Capital Fund for the Volpe National Transportation System Center (VNTSC), Cambridge, MA).

(b) The fund is reimbursed or credited with advanced payments from applicable funds or appropriations of DOT and other agencies, and with advance payments from other sources, the Secretary authorizes for:

(1) Services at rates that will recover the expenses of operation, including the accrual of annual leave and overhead; and

(2) Acquiring property and equipment.

(c) The amounts in the fund are available without regard to fiscal year limitation. However, DOT and other agency officials authorized to execute General Working Agreements or other agreements with VNTSC must insure that these agreements cite any appropriation restrictions (e.g., two year availability of funds, funds earmarked for special programs, etc.). The VNTSC must comply with these restrictions or limitations.

## **SUBCHAPTER 1232.8--ASSIGNMENT OF CLAIMS**

### **1232.802 Conditions.**

(e)(1) The contracting officer is the designated recipient of the document referred to under (FAR) 48 CFR 32.802(e)(1).

### **1232.803 Policies.**

(d) By memorandum dated October 3, 1995 (see EARL), the President delegated the authority to determine whether to include a no-setoff commitment in any contract, except a contract under which full payment has been made, to the head of the agency. In addition, the memorandum stated that the authority could be further delegated. Therefore, the authority of the head of the agency under (FAR) 48 CFR 32.803(d) is delegated to the HCA with further authority to redelegate.

## **SUBCHAPTER 1232.9--PROMPT PAYMENT**

### **1232.903 Policy.**

(b) The authority of the agency head to determine whether to make invoice and contract financing payments earlier than 7 days prior to the due dates specified in the contract is delegated to the contracting officer.

(d) It is DOT policy to pay invoices in accordance with the requirements of the Prompt Payment Act, as implemented by the FAR and the payment terms and conditions set forth in the contract. Any additional DOT standards for establishing due dates are prescribed in the appropriate (TAR) 48 CFR or TAM paragraph which corresponds to the applicable (FAR) 48 CFR paragraph. Prior to including a payment clause in a solicitation or contract that will require payments to be made earlier than those specified in the Prompt Payment Act, contracting officers shall consult with their cognizant finance office.

### **1232.904 Responsibilities.**

(a)(1), (2), (3), and (4) The authority of the agency head to establish policies and procedures for implementing OMB Circular A-125, Prompt Payment, is delegated to the Assistant Secretary for Administration (M-1).

### **1232.905 Invoice payments.**

(c)(1)(i) The contracting officer's justification for extending the due date beyond the 14 days for payments on construction contracts shall be approved at one supervisory level above the contracting officer. Under no circumstances shall the extended date exceed the periods specified under (FAR) 48 CFR 32.905.

### **1232.906 Contract financing payments.**

(a) The due date for making contract financing payments by the designated payment office will be the 30th day after the designated billing office has received a proper request. The authority of the agency head to prescribe policies and procedures that are otherwise different from above is delegated to M-1.

## **SUBCHAPTER 1232.11--ELECTRONIC FUNDS TRANSFER**

### **1232.1101-70 Policy.**

DOT has established with the Department of Treasury Regional Financial Center, Kansas City, MO, an electronic communication connection for payments via the Automated Clearinghouse (ACH) (a nationwide electronic payments network).

## **SUBCHAPTER 1232.70--CONTRACT PAYMENTS**

### **1232.7000 Scope of subchapter.**

This subchapter prescribes policies and procedures for the submission, review, and approval of payments under cost-reimbursement, time-and-materials, and labor-hour contracts and orders as defined under (FAR) 48 CFR Part 16.

### **1232.7001 Policy.**

It is the policy of DOT to perform an in-depth review of all invoices and vouchers submitted by contractors under contracts; therefore, the COCO shall ensure that the requirements of this subchapter are met.

### **1232.7002 Invoice and voucher review and approval.**

(a) Contracting officers are ultimately responsible for the review and approval of each invoice/voucher submitted by the contractor. However, the contracting officer may delegate to a representative, the authority to review and approve invoices submitted for payment under fixed-price contracts. The person delegated this authority shall provide a copy of the approved invoice and supporting documents to the contracting officer for the contract file. The contracting officer

may delegate the authority to approve vouchers for payment under other than fixed-price contracts to contract specialists only. When invoices and vouchers are reviewed, the extent of the review depends on the terms and conditions of the contract. The following list is representative of the tasks associated with reviewing and approving invoices and vouchers.

(1) Ensure that the contractor completes and submits the invoice or voucher in accordance with the contract;

(2) Ensure that the invoice or voucher is "proper" as that term is defined in the contract;

(3) Ensure that the billed costs are allocable to the contract and allowable in accordance with (FAR) 48 CFR Part 31 and any other terms and conditions of the contract;

(4) Ensure that written evidence of receipt, inspection, and acceptance of the supplies or services has been received from a Government representative;

(5) Ensure that the contractor's progress under the contract is commensurate with the payment requested (i.e., the unliquidated progress payments do not exceed the fair value of the work to be accomplished on the undelivered portion of the contract; and

(6) Ensure that the correct amounts are withheld from the invoice or voucher as required by the contract (i.e., progress payment liquidation, percentage of fixed fee, etc.).

(b) When cost-reimbursement payments will be made under the contract, the contracting officer shall obtain the recommendation of Government personnel (i.e., technical representatives, quality assurance inspectors, auditors, etc.) concerning payment of the voucher. The form shown in Appendix B, Memorandum of Payment, (or one substantially similar to it) shall be used to obtain and document the opinion of personnel within DOT. Requests for opinions outside of DOT (e.g., DCAA, HHS, etc.) shall be coordinated with the affected non-DOT personnel.

(c) If it is determined that the amount billed is allocable and allowable, the contracting officer shall furnish the designated payment office with written approval of the amount to be paid the contractor (i.e., Appendix B).

#### **1232.7003 Record of payment.**

(a) The contracting officer and the representative delegated the authority to review and approve invoices shall establish a record of payment file for each contract. The file shall evidence what was paid; what was disallowed or withheld and the rationale for the withholdings or disallowances; the balance available for payment under the contract after the invoice or voucher has been paid; and any correspondence to the contractor concerning the payments.

(b) Payments shall be recorded using the format shown in Record of Payment for Fixed Price Contract (see EARL), Record of Payment for Cost-Plus-Fixed-Fee Contract (see EARL), or Record of Payment for Progress Payment (or one substantially similar) (see EARL). These formats may be adopted or adapted for other types of contracts. Computerized records of payment are permissible.

## **SUBCHAPTER 1232.71--CANCELLATION OF M ACCOUNTS**

### **1232.7100 Scope of subchapter.**

This subchapter describes the basic requirements of Pub. L. 101-510, enacted November 5, 1990. The statute amended Subchapter IV of Title 31 U.S.C., which prescribes the rules for determining the availability of appropriation and fund balances, and establishes the procedures for closing appropriation and fund accounts.

### **1232.7101 Authority.**

OMB Bulletin No. 91-07 modifies OMB Circular No. A-34 (see EARL) to implement Pub. L. 101-510.

### **1232.7102 General.**

Part XI of OMB Circular A-34 (see EARL) sets forth procedures for closing "M" accounts, which are defined as expired accounts that contain unliquidated balances that have been merged. These procedures provide for phasing out existing M accounts and prohibits the establishment of new M accounts. While the finance offices must ensure compliance with these procedures, these fiscal requirements could impact contract instruments (e.g., cost-reimbursement contracts that must receive a final audit prior to contract closeout).

### **1232.7103 Revised duration of expired accounts.**

(a) No new obligated balances will be transferred to M accounts. Instead, separate expired accounts for each fixed account will be maintained by fiscal year identity for five years.

(1) During the five year period, obligations may be adjusted and disbursements may be made from these accounts. Unobligated balances will NOT be withdrawn from expired accounts but will remain available for legitimate obligation adjustments but not for new obligations.

(2) As of September 30th of the fifth fiscal year after the period of obligational availability ends, for each account, ALL obligated and unobligated balances shall be cancelled, and the expired account will be closed.

(b) The balances of fixed accounts are cancelled on a definite schedule. The transition from the expired accounts and M accounts established under the old procedures to the expired and closed accounts established under the new procedures will be complete at the end of fiscal year 1995. Appendix F provides the status of old and new balances in fixed accounts, and Appendix G provides a list of dates when balances in fixed accounts are cancelled.

(c) Contracting officers should seek the guidance of their cognizant finance office on the availability of funds for payments under long-term contracts.



**DETERMINATION AND FINDINGS**

**Authority to Make Progress Payments**

**FINDINGS**

1. The *(identify the OA and the contracting office)* of the Department of Transportation proposes to contract for *(describe the supplies and/or services being procured and identify the program/project, if applicable)*.
2. *(Indicate the type of contract proposed and the estimated amount of the contract.)*

**DETERMINATION**

On the basis of the above findings, I hereby determine that *(explain why progress payments based on costs cannot be practically used and why it will be feasible to administer progress payments based on a percentage or stage of completion basis)*.

*(Signature of the HCA)*

**APPENDIX B**

**ACTION:**     Payment under *(Enter the DOT number assigned to the contractual instrument)*

From: *(Enter the name and title of the individual authorized to sign this portion of the memorandum - e.g., contracting officer, specialist/administrator, etc.)*

To:     *(Enter the name of the person to whom the memorandum is being sent - e.g., contracting officer's representative, inspector, etc.)*

The attached invoice/voucher was submitted by the contractor for payment under the subject contract. Please review this document and provide, as appropriate, your recommendation or acceptance by endorsement below.

*(Signature of individual authorized to sign)*

Attachment *(Enter the invoice or voucher number and the amount)*

---

**FIRST ENDORSEMENT**

From: *(Enter the name and title of the individual authorized to sign this portion of the memorandum - e.g., contracting officer's representative, inspector, etc.)*

To:     *(Enter name of the person to whom the memorandum is being sent - e.g., contracting officer, specialist/administrator, etc.)*

I have reviewed the attachment(s) and the following applies *(check one)*:

(a) Cost-reimbursement contract. I recommend \_\_\_ approval \_\_\_ disapproval. The costs incurred \_\_\_ are \_\_\_ are not reasonable or allocable for the reasons indicated on the attachment.

(b) Fixed-price contract. I recommend \_\_\_ approval \_\_\_ disapproval.

(1) The supplies or services were accepted on \_\_\_\_\_ OR

(2) The supplies or services \_\_\_ are not acceptable for the reasons indicated on the attachment.

(c) Progress Payment. I recommend \_\_\_ approval \_\_\_ disapproval for the reasons indicated on the attachment.

*(Signature of individual authorized to sign)*

Attachment

---

## SECOND ENDORSEMENT

From: *(Enter name of the contracting officer)*

To: *(Enter name of the finance officer)*

The attached Invoice/Voucher No. *(Insert number and amount)* is approved for payment in the amount of *(Insert amount)*. After this payment, the balance remaining available for payment under this contract is *(Insert amount)*. Please contact me if this balance does not agree with your payment record.

*(Signature of contracting officer)*

Attachment

RESERVED

**RESERVED**

**APPENDIX E**

**RESERVED**

## STATUS OF OLD AND NEW BALANCES IN THE FIXED ACCOUNTS

1. **THE UNOBLIGATED BALANCES OF AMOUNTS CURRENTLY IN THE MERGED SURPLUS (MS) AUTHORITY WERE CANCELLED ON DECEMBER 5, 1990.** This includes the unobligated balances that expired at the end of FY 1988 and prior years.
2. **MOST OBLIGATED BALANCES OF AMOUNTS CURRENTLY IN THE M ACCOUNTS THAT ARE OVER 5 YEARS OLD WERE CANCELLED ON MARCH 6, 1991.** This includes the obligated balances that expired at the end of FY 1983 and prior years, except **FOR PAYMENTS THAT WERE MADE BY MAY 5, 1991.**
3. **THE REST OF THE OBLIGATED BALANCES IN THE M ACCOUNTS ARE CANCELLED, AT THE END OF THE FOLLOWING FISCAL YEARS:**

Years Obligated Balances Expired for new Obligations	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
FY 1984	M Account	Closed									
FY 1985	M Account	M Account	Closed								
FY 1986	M Account	M Account	M Account	Closed							
FY 1987	M Account	M Account	M Account	Closed							
FY 1988	M Account	M Account	M Account	Closed							

4. **THE UNOBLIGATED BALANCES IN THE CURRENT SURPLUS FUNDS ARE PLACED WITH THE OBLIGATED BALANCES IN THE CURRENT EXPIRED ACCOUNTS AND CANCELLED AS FOLLOWS:**

FY 1989	Expired	Expired	Expired	Expired	Closed	
FY 1990	Expired	Expired	Expired	Expired	Expired	Closed

5. **ALL FUTURE EXPIRED BALANCES WILL BE CANCELED AFTER 5 YEARS.**

Years Balances Will Expire:											
FY 1991	Unexpired	Expired	Expired	Expired	Expired	Expired	Closed				
FY 1992		Unexpired	Expired	Expired	Expired	Expired	Expired	Closed			
FY 1993			Unexpired	Expired	Expired	Expired	Expired	Expired	Closed		
FY 1994				Unexpired	Expired	Expired	Expired	Expired	Expired	Closed	
FY 1995					Unexpired	Expired	Expired	Expired	Expired	Expired	Closed

## List of Cancellation Dates for Balances in Fixed Accounts

DATE	BALANCES	DATE	BALANCES
12/5/90	Unobligated balances that expired at the end of FY 1988 or prior fiscal years.	9/30/94	Obligated and unobligated balances that expired at the end of FY 1989.
3/6/91	Obligated balances that expired at the end of FY 1983 or prior fiscal years.	9/30/95	Obligated and unobligated balance that expired at the end of FY 1990.
9/30/91	Obligated balances that expired at the end of FY 1984.	9/30/96	Obligated and unobligated balances that will expire at the end of FY 1991.
9/30/92	Obligated balances that expired at the end of FY 1985.	9/30/97	Obligated and unobligated balances that will expire at the end of FY 1992.
9/30/93	Obligated balances that expired at the end of FY 1986, FY 1987, and FY 1988.	9/30/98	Obligated and unobligated balances that will expire at the end of FY 1993.



## **CHAPTER 1233**

### **PROTESTS, DISPUTES, AND APPEALS**

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##### **SUBCHAPTER 1233.1--PROTESTS**

###### **1233.103 Protests to the agency.**

(d)(4) Agency procedures shall be developed by each OA.

###### **1233.104 Protests to GAO.**

(a) *General procedures.* The HCA has the responsibility to prepare and provide to the General Accounting Office (GAO) the agency report with the information required by (FAR) 48 CFR 33.104(a). The agency report shall be coordinated with legal counsel before the report is signed and sent to GAO.

(b) *Protests before award.* The authority of the HCA under (FAR) 48 CFR 33.104(b) to authorize a contract award when the agency has received notice from the GAO of a protest filed directly with the GAO is nondelegable. The HCA has the responsibility to prepare and provide to GAO the written finding with the information required by (FAR) 48 CFR 33.104(b)(1). The written finding shall be coordinated with legal counsel before the HCA affirms its approval by signing the written finding and sending it to GAO. A copy of the signed written finding and the signed written notice to GAO shall be provided to the SPE within 2 working days after they are sent to GAO. In addition, the applicable Congressional and public affairs offices shall be informed of this action in accordance with OA policies and procedures.

(c) *Protests after award.* The authority of the HCA under (FAR) 48 CFR 33.104(c) to authorize contract performance when the agency has received notice from the GAO of a protest filed directly with the GAO is nondelegable. The HCA has the responsibility to prepare and provide to GAO the written finding with the information required by (FAR) 48 CFR

33.104(c)(2). The written finding shall be coordinated with legal counsel before the notice is signed by the HCA and sent to GAO.

(g) *Notice to GAO.* The authority of the HCA under (FAR) 48 CFR 33.104(g) to report the failure to the GAO of not fully implementing the GAO recommendations with respect to a solicitation for a contract or an award or a proposed award of a contract within 60 days of receiving the GAO recommendations is nondelegable. The written notice shall be coordinated with legal counsel before the notice is signed by the HCA and sent to GAO. A copy of all notices to GAO submitted in accordance with (FAR) 48 CFR 33.104(g) shall be provided to the SPE within 2 working days after they are sent to GAO.

## **SUBCHAPTER 1233.2--DISPUTES AND APPEALS**

### **1233.203 Applicability.**

(b) The authority of the agency head to determine that the application of the Contract Disputes Act of 1978 to any contract with (1) a foreign government or agency of that government, or (2) an international organization or a subsidiary body of that organization would not be in the public interest is delegated to the HCA.

### **1233.212 Contracting officer's duties upon appeal.**

Upon receipt of notice of appeal by a contractor, the contracting officer will notify OA legal counsel, who will appoint an attorney to represent the Government before the DOT BCA (S-20). The DOT BCA procedures are contained in 48 CFR Chap. 63.

### **1233.213 Obligation to continue performance.**

The contracting officer shall use the clause at (FAR) 48 CFR 52.233-1, Disputes, with its Alternate I, where continued performance is vital to national security, the public health and welfare, critical/major agency programs, or other essential supplies or services whose timely reprocurement from other sources would be impractical.

## **CHAPTER 1234**

### **MAJOR SYSTEM ACQUISITION**

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1234.005	General requirements.
1234.005-6	Full production.

#### **APPENDICES**

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#### **1234.003 Responsibilities.**

(a) The authority of the agency head under (FAR) 48 CFR 34.003(a) is delegated to the Assistant Secretary for Administration. Appendix A contains the written procedures implementing OMB Circular A-109.

(c) The determination of the agency head under (FAR) 48 CFR 34.003(c) is nondelegable.

#### **1234.005 General requirements.**

#### **1234.005-6 Full production.**

The authority of the agency head under (FAR) 48 CFR 34.005-6 is nondelegable for Level I and II acquisitions and delegated to the Administration Acquisition Executive for Level III acquisitions (see Appendix A, Major Acquisition Policies and Procedures).



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U. S. DEPARTMENT OF TRANSPORTATION

MAJOR ACQUISITION  
POLICIES & PROCEDURES (MAPP)

JANUARY 1, 1995

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Appendix A



## **FOREWORD**

This document establishes uniform policies and procedures for acquiring major items, systems or services for the Department of Transportation (DOT). It implements Office of Management and Budget (OMB) Circular A-109, entitled Major System Acquisitions, dated April 5, 1976. This document must be read in consonance with the Federal Acquisition Regulation, the Transportation Acquisition Regulation, the Transportation Acquisition Manual (TAM), the Federal Information Resource Management Regulation, OMB Circular A-109, and any implementing Operating Administration guidance.

This document entitled Major Acquisition Policies and Procedures (MAPP) is divided into four sections as follows:

**Section I** General Information Pertaining to DOT Major Acquisitions

**Section II** Major Acquisition Process

**Section III** Transportation Systems Acquisition Review Council (TSARC) procedures

**Section IV** Documentation

The MAPP was effective January 1, 1993, and is hereby revised as a result of changes recommended by the Major Acquisition Policy Council. The MAPP has been reprinted in its entirety with change bars indicating areas that have been revised. This reprint replaces the January 1, 1993, version of the MAPP found in TAM Chapter 1234, Appendix A and is effective January 1, 1995, for all major acquisitions. In keeping with the spirit of the National Performance Review recommendations, efforts have been made to streamline the process as well as ensure that major acquisitions are handled consistently throughout DOT.

Operating Administrations are to ensure that any necessary change to their implementing guidance is in place by January 1, 1995. It is the responsibility of each Operating Administration to ensure that this document is distributed to all individuals who are involved with the acquisition of major items, systems, and services.

(Original signed by)  
Mortimer L. Downey  
The Deputy Secretary





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#### **Glossary of Acronyms**

**SECTION I - GENERAL INFORMATION PERTAINING  
TO THE DEPARTMENT OF TRANSPORTATION  
MAJOR ACQUISITIONS**



A. **PURPOSE.** This document establishes policies and procedures for acquiring major items, systems, and services that satisfy operational and support needs of the Department of Transportation (DOT) and its Operating Administrations (OA). It implements the Office of Management and Budget (OMB) Circular A-109, entitled Major System Acquisitions, dated April 8, 1976, within DOT.

B. **APPLICABILITY AND PRECEDENCE.**

1. **Applicability.** This document applies to all DOT acquisitions with a Total Acquisition Cost of \$50 million or more except for construction or other improvements to real property (as defined in the Federal Acquisition Regulation (FAR) Part 36). The applicability of this document includes, but is not limited to:

a. A new or replacement acquisition for supplies and/or services with a Total Acquisition Cost of \$50 million or more, which may be provided by a contractor directly or indirectly through an interagency or intragency agreement regardless of the type of funding appropriated for the effort, and whose total acquisition costs may include:

(1) Research, design, development, installation, testing, evaluation, demonstration, production, services, or initial provisioning (e.g., spare parts, documentation, training);

(2) Rehabilitation/overhaul or upgrading of a system, subsystem, or major components in the deployment phase;

(3) Services for a five-year period including Architecture and Engineering services;

(4) Federal Information Processing (FIP) resources procurement; or

(5) An acquisition funded by an Operations Appropriation for a five-year program period (which may cover multiple contracts) or the life of an implementing contract that is greater than five years.

(6) An acquisition executed through a combination of contracting and assistance instruments.

b. Acquisitions with a Total Acquisition Cost of \$50 million or more for which the OAs' involvement is limited to the development of demonstration hardware and/or software for optional use by the private sector rather than for the OA's own use; and

c. Those programs designated by the Transportation Acquisition Executive as major acquisitions, regardless of the costs.

d. Acquisitions with a Total Acquisition Cost of \$50 million or more for which the mission needs have been justified, funded, and approved by another agency; however, the extent to which these acquisitions must follow these procedures shall be determined on a case-by-case basis by the Assistant Secretary for Administration.

2. **Precedence.** This document ranks first in order of precedence for providing policies and procedures for managing Departmental major acquisitions, except when OMB Circular A-109 (hereinafter referred to as A-109), statutory, or regulatory requirements override.

### C. **DEFINITIONS.**

"Acquisition Phase" is the period of time following a Key Decision Point when specific activities are conducted to achieve acquisition objectives.

"Administration Acquisition Executive" (AAE) is the Head of the Operating Administration (HOA) or designee, no lower than two levels below the HOA but, in no case, lower than the Associate Administrator level or Chief of Staff for the Coast Guard.

"Administration Acquisition Review Council" (AARC) is a permanent group of senior OA officials designated by the HOA to perform internal OA level reviews of major acquisitions.

"Agency" means, in the context of A-109 and this document, DOT.

"Agency Component" means, in the context of A-109 and this document, the OAs of DOT, which are:

- Federal Aviation Administration (FAA)
- Federal Highway Administration (FHWA)
- Federal Railroad Administration (FRA)
- Federal Transit Administration (FTA)
- Maritime Administration (MARAD)
- National Highway Traffic Safety Administration (NHTSA)
- Office of the Secretary of Transportation (OST)
- Research and Special Programs Administration (RSPA)
- St Lawrence Seaway Development Corporation (SLSDC)
- United States Coast Guard (USCG)

"Exit Criteria" means program specific accomplishments or performance parameters that must be satisfactorily demonstrated before a major acquisition can progress further in the current acquisition phase or transition to the next acquisition phase.

"Key Decision Point" (KDP) is the point in time when an acquisition comes before the cognizant acquisition executive for approval to proceed to the next acquisition phase.

"Level" is the major acquisition category (i.e., Level I, II, or III) determined by the Transportation Acquisition Executive at KDP 1.

"Life Cycle Costs" means Total Acquisition Costs plus operation, maintenance and support, depot development and support and disposal costs over the useful life of an item or a system.

"Low-Rate-Initial-Production" (LRIP) means the production of an item or system in a limited quantity to: provide articles for operational test and evaluation; establish an initial production base; test the production process/production line; and/or permit an orderly increase in the production rate sufficient to lead to full-rate production upon successful completion of operational testing.

"Major Acquisition" is an acquisition that is typically directed at and critical to fulfilling an OA mission; entails the allocation of relatively large resources to procure, whether by purchase or lease; and warrants special management attention.

"Major Acquisition Policy Council" (MAPC) means a management group reporting to the Transportation Acquisition Executive and comprised of the Assistant Secretary for Administration; the Director, Office of Acquisition and Grant Management; the FAA Executive Director of Acquisition and Safety Oversight; the USCG Chief, Office of Acquisition; and, as requested by the Transportation Acquisition Executive, other OA Acquisition Executives who have major acquisitions subject to this document.

"Major Acquisition Review" is a periodic review of a program during the acquisition phases to assess progress and address any concerns or issues.

"Then-Year Dollars" means a method of adjusting dollars for the effects of inflation such that out-year resource requirements are expressed in the actual dollar amounts needed in those years to meet program requirements.

"Total Acquisition Costs" (TAC) means all costs for developing, acquiring, and fielding by contract, interagency agreement, and/or other funding instruments, supplies and/or

services for a designated program through purchase or lease, whether the supplies are already in existence or must be created, developed, demonstrated, and evaluated, and without regard to the type(s) of appropriated funds used. The factors which make up TAC differ for supplies versus services acquisitions. For Level I and IIIA acquisitions, these costs may include the following factors:

Hardware (+)  
Software (+)  
Nonrecurring production start up (+)  
Contractor's program management (+)  
Allowance for changes or growth  
= Unit Cost

PLUS  
Technical data (+)  
Publications (+)  
Contractor services (+)  
Support equipment (+)  
Training equipment (+)  
Initial training  
= System Cost

PLUS  
Initial Spares  
= Procurement Cost

PLUS  
Research, Engineering & Development RE&D (+)  
Test and evaluation (+)  
Facility or site construction (+)  
In-house contractor support services  
= Total Acquisition Costs

For Level II and IIIB acquisitions these costs may include the following factors:

Technical Support  
Management Support  
Leased Services

"Transportation Acquisition Executive" (TAE) means, in the context of A-109 and this document, the Deputy Secretary.

"Transportation Systems Acquisition Review Council" (TSARC) is a group of senior officials which evaluates major acquisitions and provides advice to the TAE.



"TSARC Executive Secretary" is the Director, Office of Acquisition and Grant Management.

D. MAJOR ACQUISITION LEVELS. Major acquisitions shall begin with KDP 1 approval and designation of a major acquisition level by the TAE. In making the designation of a level, the TAE will consider the complexity and the risks involved, as well as the dollar value using then year dollars of the acquisition, including the need for continuing direct oversight by the TAE. When the Total Acquisition Costs for programs initially estimated to be less than \$50 million exceeds this amount due to changes in quantities, cost, schedule, etc., written notification to the TSARC Executive Secretary is required to determine if it should be designated a major acquisition.

1. **Determining factors.** The TAE will make an integrated assessment of the following factors at KDP 1 to determine the appropriate level designation.

a. **For acquisitions of new or replacement items or systems/overhauls (Generally Levels I or IIIA):**

- (1) recommendation of the OA;
- (2) technological risk (e.g. non-developmental items (NDI) versus complex development);
- (3) impact on other OA programs;
- (4) new requirement versus repetitive/replacement;
- (5) intermodal implications;
- (6) public sensitivity/visibility;
- (7) programmatic risks;
- (8) rough-order-of-magnitude TAC;
- (9) need for direct oversight by TAE.

b. **For acquisitions of services (Generally Levels II or IIIB):**

- (1) recommendation of the OA;
- (2) new requirement versus repetitive/replacement;
- (3) intermodal implications;
- (4) public sensitivity/visibility;
- (5) rough-order-of-magnitude TAC;
- (6) programmatic risks;
- (7) need for direct oversight by TAE.

2. **Assessment/recommendation of major acquisition level.** In making a recommendation to the TAE, the AAE shall provide a written assessment based on the above factors.

### **3. Approval Authority.**

a. **Levels I and II.** Approval authority for Level I and II acquisitions will be retained by the TAE. However, at KDP 2, the TAE will reassess the level designation for a Level I or Level II acquisition based on the alternative selected.

b. **Level III.** Approval authority for all KDPs for Level III acquisitions after KDP 1 will be delegated by the TAE to the AAE.

### **E. KDPs AND ACQUISITION PHASES.**

1. **KDPs.** There are four KDPs which may be used in the acquisition process. They are:

a. **KDP 1.** Approval of the Mission Need and approval to begin Phase 1, Concept Exploration/Alternatives Analysis.

b. **KDP 2.** Approval to begin Phase 2, Demonstration and Validation/Acquisition Execution.

c. **KDP 3.** Approval to begin Phase 3, Full Scale Development.

d. **KDP 4.** Approval to begin Phase 4, Full Production and Deployment.

2. **Acquisition Phases.** The acquisition phases vary based upon the level designated for the major acquisition. The following applies:

a. **Levels I and IIIA Acquisitions.** There are four phases which may be applicable to Levels I and IIIA acquisitions. They are:

(1) Phase 1, Concept Exploration, which explores alternative concepts for correcting the deficiency(ies) described in the MNS. Competitive, parallel, short term studies by the Government and/or industry will normally be used during this phase. The focus is on defining and evaluating the feasibility of alternative concepts and providing the basis for assessing the relative merits of the concepts at KDP 2.

(2) Phase 2, Demonstration and Validation, which further develops the most promising concept(s) identified in Phase 1 and demonstrates and validates the concept(s) by developmental testing and/or simulation.

(3) Phase 3, Full Scale Development, which further develops the concept(s) which have been successfully demonstrated in Phase 2 into full scale prototype and/or first article units for testing. Any LRIP units are fabricated during this phase. Operational Test and Evaluation (OT&E) is conducted on production representative units to confirm that the item meets the need described in the MNS.

(4) Phase 4, Full Production and Deployment, which produces systems and equipment for deployment into operational use. Items replaced or made obsolete by the newly deployed items are disposed of in accordance with applicable statutes and/or regulations/procedures.

b. **Levels II and IIIB Acquisitions.** There are two phases which are applicable to Levels II and IIIB acquisitions. They are:

(1) Phase 1, Alternatives Analysis, which analyzes the alternatives for correcting the deficiencies described in the MNS. The focus is on evaluating the feasibility of each alternative and providing the basis for assessing the relative merits of the alternatives at KDP 2.

(2) Phase 2, Acquisition Execution, which develops an acquisition strategy (if not previously accomplished under Phase 1) and executes the alternative approved at KDP 2. This constitutes the last acquisition phase under Level II and IIIB acquisitions.

F. **POLICY.** This paragraph describes general policy objectives and requirements which are to be followed in managing DOT major acquisitions.

1. **Objectives.** The policy objectives of this document are to achieve:

a. An integrated management framework for translating well-justified, approved mission needs into stable, affordable acquisitions.

b. A rigorous, event-oriented management process for acquiring quality systems, supplies and services that emphasizes sound acquisition planning, active involvement of the users/sponsors, and effective risk management by both Government and industry.

c. A disciplined acquisition management structure and process with short, clearly defined lines of responsibility, authority, and accountability. This structure should encourage continuity of program management at each acquisition phase.

d. Active involvement of users/sponsors in the development and evolution of operational requirements and in the planning and execution of operational testing.

2. **Requirements.** The policies and procedures of this document require:

a. KDP 1 to be approved by the TAE before funds for an acquisition will be included in the OST budget request to OMB.

b. Regular revalidation of mission need, operational requirements, and program affordability at each KDP. Affordability will be assessed in conjunction with long range resource allocation planning information.

c. Consideration of all life cycle costs in developing realistic cost estimates for programs.

d. Program risks to be explicitly assessed at each KDP prior to granting approval to proceed into the next acquisition phase.

e. Accomplishment of the exit criteria as a requirement for major acquisition continuation.

f. Realistic program schedules to be developed carefully and monitored closely to ensure that the required projections of funding needs for each fiscal year is consistent with the expected acquisition phase for each fiscal year.

g. Active tracking of contractor performance.

h. A definition of requirements that begins with a well justified description of the operational deficiency in the approved MNS. Performance objectives and minimum acceptable requirements shall be developed from, and remain consistent with, the initial broad, quantitative statements of operational mission need. The proposed user/sponsor shall participate in requirements definition throughout the acquisition process.

i. Mission requirements are to be satisfied to the maximum extent through the use of NDI (including COTS) hardware and software when such products meet user needs and are cost effective over their life cycle.

j. Developmental testing to verify attainment of technical performance requirements and operational testing to demonstrate operational effectiveness and suitability. OT&E must be successfully completed before full production will be authorized. (Applies only to Levels I and IIIA acquisitions.)

k. Independent oversight of OT&E to be accomplished through an organization which reports directly to the HOA (or a designee who is no lower than the AAE) and is independent of the Program Manager and users/sponsor. (Applies only to Level I and, when required by the TAE or AAE, Level IIIA acquisitions.)

l. Resource requirements in all program planning and acquisition documents shall be expressed in then-year dollars.

#### **G. RESPONSIBILITIES OF KEY OFFICIALS.**

##### **1. Transportation Acquisition Executive (TAE):**

a. has general oversight responsibility for the conduct and management of DOT major acquisitions;

b. makes the KDP 1 decision for major acquisitions and identifies the next action(s) that needs to be accomplished;

c. designates a major acquisition as Level I, II, or III;

d. makes subsequent KDP decisions, if applicable, approves Acquisition Plans (APs) and updates, and approves major changes for all acquisitions designated as Level I or II;

e. delegates approval for subsequent KDPs and AP/update approval for Level III major acquisitions to the AAE following KDP 1 approval;

f. determines at KDP 1 which Level III programs require independent oversight of OT&E;

g. chairs TSARC meetings; and

h. may elect to have the Assistant Secretary for Administration assume these responsibilities for specific decisions and/or programs.

##### **2. Assistant Secretary for Administration (ASA):**

a. implements the TAE's oversight responsibilities for the conduct and management of major acquisitions throughout DOT;

b. serves as Vice Chair of the TSARC and makes key decisions, as appropriate, in that capacity;

c. assumes the responsibilities of the TAE in the TAE's absence or as specified in paragraph G.1.h. above;

d. determines whether an acquisition should be subject to these procedures; and

e. after completion of the detailed analysis of the documentation, and if there are no issues which need to be resolved during a TSARC meeting, the ASA may waive the TSARC meeting with the concurrence of the cognizant OA.

**3. Transportation Systems Acquisition Review Council (TSARC):**

a. advises the TAE regarding major acquisitions; and

b. conducts a systematic review of the documentation provided to the TAE in support of each decision for which the TAE is responsible.

**4. TSARC Executive Secretary:**

a. serves as the point of contact for all issues and documentation submitted to the TAE for information and/or action, and coordinates reviews by the TSARC members;

b. determines if documentation submitted for TSARC review is adequate;

c. identifies issues to be raised to the TSARC;

d. identifies, for the approval of the TAE, any ad hoc advisors which might be necessary to assist the TSARC with identification and/or resolution of issues;

e. prepares and distributes briefing books for the TSARC members for scheduled meetings;

f. documents results of the TSARC meetings, prepares Acquisition Decision Memoranda or other required documentation for the TAE, and maintains a central reference file for TSARC actions; and

g. schedules TSARC meetings.

**5. Head of Operating Administration (HOA):**

a. serves as the AAE for his/her OA (unless otherwise delegated in writing);

b. ensures that the policies and procedures established herein are fully implemented;

c. serves on the TSARC for major acquisitions under his/her cognizance; and

d. establishes an AARC for OA major acquisitions, as necessary; and

e. may retain or delegate the following functions as appropriate (however, no delegation may be lower than the AAE for items (1) through (5) below and no lower than two levels below the HOA for items (6) and (7)).

(1) identifies OA acquisitions which are candidates for designation as major acquisitions subject to this document;

(2) designates a Level III acquisition as a Level IIIA or a Level IIIB acquisition if not already designated by the TAE;

(3) chairs the AARC and makes key decisions after KDP 1 for major acquisitions designated as Level III;

(4) approves APs (and updates) for Level III designated major acquisitions;

(5) has general oversight responsibility for the conduct and management of OA major acquisitions;

(6) charters the Program Manager (PM) for each major acquisition covered by this document; and

(7) determines training and experience requirements for PMs and oversees the implementation of these requirements.

6. **Administration Acquisition Executive (AAE):** serves as the OA equivalent of the TAE and performs comparable functions as delegated by the HOA.

7. **Administration Acquisition Review Council (AARC):**

a. in general, performs the same functions as the TSARC, for a Level III acquisition; and

b. performs internal OA reviews of Levels I and II acquisitions at the discretion of the AAE.

8. **Major Acquisition Policy Council (MAPC):**

a. convenes annually to assess changes to the DOT major acquisition process;

b. determines whether specific policy changes may be issued by the Director, Office of Acquisition and Grant Management, or should be forwarded to the TAE for approval; and

c. reports directly to the TAE.

9. **PM:**

a. manages the assigned program in a manner that is consistent with applicable statutes, regulations, directives, DOT and OA policies and procedures, and the Program Manager Charter;

b. participates in all program decision making, and ensures that all support organization and user/sponsor organization needs and concerns are considered in all program decisions;

c. actively monitors contract performance;

d. provides candid and timely assessments of program status and risk in all briefings and presentations to higher authorities; and

e. maintains close liaison with respective budget staffs to ensure effective coordination of program and budget status.

10. **Contracting Officer:** plans, enters into, administers, and/or terminates contracts in accordance with the FAR and other applicable statutes, regulations, and directives.

11. **User/Sponsor:**

a. participates in the long range planning process and mission analysis, and when required by the OA, prepares MNS;

b. prepares and updates the Operational Requirements Document;

c. actively participates in the development and execution of the TEMP; and

d. participates in all phases of the acquisition to ensure that the item or system being acquired meets operational needs.

12. **Independent Oversight Organization for OT&E.** For Level I and IIIA acquisitions (the Independent Oversight Organization for OT&E applies to Level IIIA acquisitions only if required by the TAE or AAE):



a. reviews and comments on the TEMP, reviews and comments on the Development Test and Evaluation (DT&E) Plan, reviews and comments on the OT&E Plan, reviews DT&E test results, observes OT&E, and makes an independent analysis of the data developed during OT&E; and

b. provides a report on the results of the independent analysis of OT&E directly to the HOA or designee.

H. **PROGRAM CANCELLATION.** Major acquisitions which have an approved MNS may only be cancelled by the TAE. Recommendations for cancellation shall be submitted through the AAE and the TSARC Executive Secretary to the TAE for a decision. Cancellation recommendations will normally be the result of changes to mission needs and/or inability to achieve the required capability within the time and cost allowed. The cancellation request shall include, as a minimum:

1. an explanation of the reason(s) for recommending cancellation;

2. costs incurred to date and estimated costs to complete the program if it is not cancelled;

3. costs to be incurred as a result of cancellation;

4. operational impacts of cancellation and of non-cancellation;

5. a revised MNS detailing how the mission need has changed, or if the mission need has not changed, how the approved mission need will be met if the current program is cancelled; and

6. recommendations for disposal of any items developed or acquired.

I. **WAIVERS.** Any requests for exceptions to this document shall be submitted through the AAE and the TSARC Executive Secretary to the TAE for a decision. The request shall contain sufficient detail to clearly explain the basis of the request, procedures sought to be waived, and any recommended alternative action.



## **SECTION II - MAJOR ACQUISITION PROCESS**



**A. GENERAL PRINCIPLES.** The following are general principles which underlie the criteria forming the basis for key decisions made by the cognizant acquisition executive:

1. **Long Range Planning.** Long range resource allocation planning (LRRAP) is essential to ensuring that physical and personnel requirements and fiscal constraints are integrated. Each Operating Administration (OA) shall institute a LRRAP process which will generate the information required to make the integrated assessment called for above. Each OA shall provide LRRAP information to the Transportation Acquisition Executive (TAE) annually. Additionally, at each Key Decision Point (KDP), the OA shall show the impact of an acquisition on the LRRAP information provided. Requirements for the LRRAP information are identified in Section IV.

2. **Mission Analysis.** Each OA shall perform mission analysis on a continuing basis. Mission analysis is a focused process that assesses the ability of current assets (e.g., hardware, software, and personnel) to successfully carry out a specific, current or future mission. Mission analysis identifies capabilities needed to perform required functions, highlights deficiencies in functional capability, and documents the results of the analysis. Mission analysis should be based on the assessment of factors that affect demand on each mission area such as demographic trends, national policy and international agreements, and changes in the needs of the user. It should also be based on the continuous monitoring of performance, supportability and maintenance trends of operational systems to determine when they will no longer be able to meet current or emerging needs. Quantitative data should be used wherever possible to justify and document the conclusions of mission analysis. Working papers shall be retained within OA files.

If the mission analysis determines that: (a) there is (or will be) a functional capability deficiency; and (b) that the deficiency cannot be met with non-material solutions (such as changes to procedures, policies, or training), then a Mission Need Statement (MNS) incorporating the results of the mission analysis shall be prepared.

3. **Affordability.** Affordability decisions at each KDP shall consider the annual budget costs and priorities of all acquisition programs planned for the next five years (as a minimum) and the cost to benefit relationship of each individual program. Life cycle costs, including annual operation and support, shall be the basis for affordability decisions. Approval to enter the next acquisition phase of a program shall not be granted unless sufficient resources are or will be programmed to support projected development, testing, production, fielding, and support requirements.

**4. Test and Evaluation.** Test and evaluation is a continuing function throughout the acquisition process. The successful accomplishment of test and evaluation objectives is a critical requirement for supporting the KDP determination to commit significant resources to a program and advance a program from one acquisition phase to another.

All Levels I and IIIA acquisitions are required to follow a disciplined test and evaluation procedure. Test and evaluation procedures for Level II and IIIB acquisitions may be instituted by the OA as appropriate. Test and evaluation shall be conducted throughout Phases 2 through 4. In the earlier phases, the purpose is to assess and reduce developmental risks and make early operational assessments. In the later phases, formal test and evaluation requirements are established. The two formal categories of test and evaluation and the objectives for each are:

**a. Developmental Test and Evaluation (DT&E).** The principal objectives of DT&E are to:

- (1) assist the engineering design and development process;
- (2) verify performance objectives and requirements;
- (3) demonstrate that design risks have been minimized;
- (4) estimate the system's utility when introduced;
- (5) evaluate the compatibility and interoperability with existing or planned equipment/systems;
- (6) provide assurance that the system/equipment is ready for testing in the operational environment; and
- (7) identify needed modifications or improvements.

**b. Operational Test and Evaluation (OT&E).** The principal objectives of OT&E are to conduct testing in an environment as operationally realistic as possible to:

- (1) demonstrate the operational effectiveness and suitability of the system;
- (2) identify needed modifications or improvements;
- (3) provide information on organizational and personnel requirements (e.g., qualifications and training); and

(4) provide data to verify the adequacy of various manuals, handbooks, supporting plans and other documentation for operations, maintenance, training, logistics, etc.

**5. Non-developmental items (NDI), including commercial-off-the shelf (COTS) items.** NDI represents a potential cost-effective, time-saving, lower risk approach to meeting requirements for major acquisitions.

(a) Throughout the acquisition process, the use of NDI shall be considered. In Phase I, the use of NDI shall be examined even though it may appear that it would not meet the preliminary or initial performance requirements as identified by the sponsoring organization. The cost to achieve marginal performance not provided by NDI shall be evaluated against the benefit that would be realized through lower cost and risk or earlier deployment to determine whether performance objectives should be adjusted to allow an NDI solution. An NDI solution does not by itself eliminate phases of the acquisition process nor should it be assumed to be the best solution. Through comparative evaluation, the use of the NDI solution must be evaluated against other feasible solutions considering such factors as life-cycle cost, schedule, risk and supportability.

(b) If the NDI solution is expected to have a short life span, planning for a replacement item shall be initiated simultaneously with procurement of the chosen NDI solution.

(c) Generally, COTS should not be modified since it then becomes a unique Government item that may be difficult to support or upgrade. The extent to which NDI is modified must be reflected in an appropriate developmental program complete with testing to ensure compatibility with interfacing systems and achievement of all essential operational requirements. Even if not modified, operational testing of NDI must be used to demonstrate that performance meets essential user requirements and that NDI is completely operable with other elements of the overall system where it will be used.

(d) A maintenance philosophy must be clearly established prior to issuing any solicitation for procurement. Generally, this means that this approach is established during Phase I. The level of maintenance support must be included in the statement of work. NDI items embedded in a developmental system must be clearly identified so that support risks can be realistically assessed.

**6. Federal Information Processing (FIP) Resources.** By the nature of the high tech solutions and systems that the Department of Transportation acquires to meet mission needs and the sweeping definition of FIP in the Federal Information Resources Management

Regulation (FIRMR), a significant portion of the acquisitions covered by this document may fall under the General Services Administration's exclusive procurement authority. Proper procurement authority, in the form of a specific or a blanket delegation of procurement authority (DPA) must be addressed during each acquisition phase. Generally, a request for a DPA will not be forwarded to GSA until the applicable KDP has been approved; however, if requested by the OA in the DPA submission to OST (M-30), the Assistant Secretary for Administration may authorize transmittal of the DPA to GSA prior to approval of the applicable KDP. Program Managers should consult with OST or OA Information Resources Management organizations and/or OA legal counsel for assistance in determining FIRMR applicability.

**B. KEY DECISION POINT (KDP) AND PHASE.** The following applies to the charts displayed in subparagraphs 1. through 4. of this subsection:

#### **INSTRUCTIONS RELATING TO KDPs AND ACQUISITION PHASES**

- **KDPs.** The following subparagraphs display the requirements of the four KDPs and the related acquisition phases. Discussion of each of the KDPs is subdivided into three areas: (1) Decision Criteria which the cognizant acquisition executive will use to determine if the acquisition should proceed further; (2) Documentation required to be submitted by the OA to the cognizant acquisition executive to support the OA's request for approval of the KDP; and (3) Acquisition Decision Memorandum outlining what decisions need to be documented by the cognizant acquisition executive.

- **Acquisition phases.** The following subparagraphs also display the requirements for each acquisition phase. It is subdivided into two areas: (1) Objectives that should be met during the acquisition phase; and (2) Required Accomplishments during the acquisition phase. Each of these areas is cross-referenced by acquisition level to provide an easy reference for what is required for a major acquisition.

- **General.** Each acquisition may not need to proceed through all the KDPs and acquisition phases. Depending on the characteristics of the individual acquisition, the cognizant acquisition executive may tailor the process to permit certain key decisions or acquisition phases to be combined or skipped. Some examples, while not all inclusive, are:

- If it is demonstrated at KDP 2 or 3 that a Non-developmental item (NDI)/Commercial-off-the-shelf (COTS) item alternative best fills the need of the OA, the acquisition may be allowed to proceed directly to KDP 4.



- If it is demonstrated at KDP 2 that the alternative that best fills the need of the OA relies on existing, mature technology and does not require a technology breakthrough, then the acquisition may be allowed to skip Phase 2 and proceed directly to Phase 3.

- If it is demonstrated at KDP 1 that there is only one alternative or concept that best meets the need of the OA (most likely in a Level II or IIIB services acquisition), then the acquisition may be allowed to proceed directly to Phase 2.

- If it is demonstrated by the OA that alternative concepts have been thoroughly evaluated during Phase 1, the cognizant acquisition executive may select a single concept to be pursued during Phase 2.

The purpose of these illustrations is not to encourage skipping or combining steps or phases but to provide explicit recognition that acquisitions may proceed differently through the acquisition cycle. In all cases, the burden of proof is on the program manager to demonstrate that the principles and policies of this document will still be met even if phases and decision points are combined or skipped. The final determination of how an acquisition should proceed rests with the acquisition executive responsible for the applicable key decision.

#### TABLE INSTRUCTIONS

• The key shown below applies to the major acquisition process tables found on the following pages:

**KEY:**

X = Required.

Blank boxes = Not required, but may be required by the OA as determined necessary.

1. KDP 1 and Phase 1.

a. KDP 1 -- Approval of the Mission Need Statement (MNS) and approval to begin Phase 1, Concept Exploration/ Alternatives Analysis.

(1) **Decision criteria for KDP 1.** Approval to proceed with the major acquisition will be based on the information produced in response to the questions listed below, as well as other information considered relevant by the Transportation Acquisition Executive (TAE).

DECISION CRITERIA FOR KDP 1	LEVEL I	LEVEL II	LEVEL	
			IIIA	IIIB
Is the mission need justified?	X	X	X	X
Can the functional deficiency described in the MNS be adequately resolved with a non-material solution?	X	X	X	X
Does the functional deficiency described in the MNS warrant funding?	X	X	X	X
Is the major acquisition affordable in the context of the Long Range Resource Allocation Planning (LRRAP) process?	X	X	X	X
Are there adequate resources available for Phase 1 or can they be acquired?	X	X	X	X

(2) Documentation to be submitted for KDP 1. The following chart lists the documentation requirements to be submitted to the TAE for KDP 1:

DOCUMENTATION FOR KDP 1	LEVEL I	LEVEL II	LEVEL	
			IIIA	IIIB
MNS	X	X	X	X
Propose Phase 1 Proposal submission date or Phase 1 Proposal	X	X	X	X
Proposed exit criteria that must be satisfied before the next KDP can be approved.	X	X	X	X
Recommended major acquisition level with supporting rationale	X	X	X	X

(3) **Acquisition Decision Memorandum for KDP 1.**

The following chart lists the decisions for KDP 1 that must be documented in the Acquisition Decision Memorandum by the TAE (unless otherwise noted below):

ACQUISITION DECISION MEMORANDUM FOR KDP 1	LEVEL I	LEVEL II	LEVEL	
			IIIA	IIIB
Approve the MNS and authorize program start.	X	X	X	X
Designate program level.	X	X	X*	X*
Specify if Independent Oversight of Operational Test and Evaluation (OT&E) is required.	X		X	
Specify frequency of Major Acquisition Review (MAR) requirements.	X	X	X	X
Define the minimum set of concepts/alternatives to be explored.	X	X	X*	X*
Approve Phase 1 Proposal (if submitted)	X	X	X*	X*
or Establish Phase I Proposal submission date	X	X	X*	X*
Establish exit criteria required for the next KDP decision.	X	X	X*	X*

\*The AAE shall prepare an Acquisition Decision Memorandum for Level III acquisitions approving the exit criteria, Phase 1 Proposal, and the concepts/alternatives to be explored.

b. **PHASE 1** -- Performance of Concept Exploration/  
Alternatives Analysis.

(1) Objectives. The objectives of Phase 1 are to:

OBJECTIVES FOR PHASE 1	LEVEL I	LEVEL II	LEVEL	
			IIIA	IIIB
Explore various concepts/ alternatives.	X	X	X	X
Define the most promising concept(s)/alternatives.	X	X	X	X
Identify potential risk areas for each concept/alternative.	X	X	X	X

(2) Minimum required accomplishments for Phase 1. The following chart lists the minimum required accomplishments for Phase 1:

REQUIRED ACCOMPLISHMENTS FOR PHASE 1	LEVEL I	LEVEL II	LEVEL	
			IIIA	IIIB
Revalidate the MNS.	X	X	X	X
Develop Phase 1 Proposal and obtain approval (if not submitted at KDP 1)	X	X	X	X
Assess major strengths and weaknesses of each concept/ alternative.	X	X	X	X
Evaluate Non-development items/Commercial-off-the- shelf items (NDI/COTS) as a viable technology for in- corporation in the system design.	X		X	
Develop Acquisition Plan (AP).	X*	X*	X*	X*

\*May be deferred to Phase 2.

REQUIRED ACCOMPLISHMENTS FOR PHASE 1 (CONT'D)	LEVEL I	LEVEL II	LEVEL	
			IIIA	IIIB
Designate/charter Program Manager for acquisition.	X	X	X	X
Prepare an Acquisition Phase Summary	X	X	X	X
Develop Acquisition Program Baseline (APB) including Appendix A	X	X	X	X
Develop Life Cycle Cost Estimate (LCCE) (for the technically feasible concepts/alternatives).	X	X	X	X
Develop proposed exit criteria that must be satisfied before the next KDP can be approved.	X	X	X	X
Develop and approve in accordance with Operating Administration (OA) procedures:				
Operational Requirements Document (ORD)	X		X	
Cost Benefit Analysis (CBA)	X	X	X	X
Risk Management Plan (RMP)	X		X	
Test and Evaluation Master Plan (TEMP)	X		X	
Integrated Logistics Support Plan (ILSP)	X		X	

## 2. KDP 2 AND PHASE 2.

a. KDP 2 -- Approval to begin Demonstration and Validation (DemVal)/Acquisition Execution.

(1) Decision criteria for KDP 2. Approval to proceed with the major acquisition will be based on the information produced in response to the questions listed below, as well as other information considered relevant by the TAE or the AAE.

DECISION CRITERIA FOR KDP 2	LEVEL I	LEVEL II	LEVEL	
			IIIA	IIIB
Is the mission need still justified?	X	X	X	X
Do the concept exploration/alternatives analysis results support the need to continue the program?	X	X	X	X
Are one or more of the concepts/alternatives affordable in the context of the LRRAP process?	X	X	X	X
Are adequate resources available for the program or can they be acquired?	X	X	X	X
Have all exit criteria established at KDP 1 been satisfied?	X	X	X	X
Has the requisite documentation required for Phase 1 been approved?	X	X	X	X

(2) Documentation to be submitted for KDP 2. The following chart lists the documentation requirements to be submitted to the TAE (Levels I and II) and the AAE (Level III):

DOCUMENTATION FOR KDP 2	LEVEL I	LEVEL II	LEVEL	
			IIIA	IIIB
Revalidated MNS.	X	X	X	X
AP.	X*	X*	X*	X*
Acquisition Phase Summary.	X	X	X	X
APB including Appendix A.	X	X	X	X
LCCE.	X	X	X	X
Proposed exit criteria that must be satisfied before the next KDP can be approved.	X		X	

\*Required if developed in Phase 1.

(3) Acquisition Decision Memorandum for KDP 2. The following chart lists the decisions for KDP 2 that must be documented by the TAE (Levels I and II) and the AAE (Level III):

ACQUISITION DECISION MEMORANDUM FOR KDP 2	LEVEL I	LEVEL II	LEVEL	
			IIIA	IIIB
Approve KDP 2 and authorize entry into Phase 2 if applicable (i.e., approve revalidated MNS).	X	X	X	X
Establish AP submission date (if AP not previously submitted).	X	X	X	X
or Approve AP.	X	X	X	X
Approve APB including Appendix A.	X	X	X	X
Specify frequency of MARs.	X	X		
Establish exit criteria that must be satisfied before the next KDP can be approved.	X		X	



b. **PHASE 2 -- DEMVAL or Acquisition Execution.** DEMVAL is the term used for the Phase 2 action required for Levels I and IIIA acquisitions. Acquisition Execution is the term used for the Phase 2 actions required for Levels II and IIIB acquisitions. Each is divided by separate tables below:

(1) **DEMVAL.**

(a) Objectives. The objectives of Phase 2 for DEMVAL are:

OBJECTIVES OF PHASE 2 DEMVAL	LEVEL I	LEVEL IIIA
Further define the critical design characteristics and expected capabilities of the approved concept(s)/alternative(s).	X	X
Demonstrate that the technologies critical to the most promising concept(s)/alternative(s) can be incorporated into system design(s) with confidence.	X	X
Ascertain that the processes (e.g., manufacturing) critical to the most promising concept(s)/alternative(s) are understood and attainable.	X	X
Reduce risk and mature the system design in preparation for Phase 3.	X	X

(b) Minimum required accomplishments for Phase 2, DEMVAL. The following chart lists the minimum required accomplishments for Phase 2:

REQUIRED ACCOMPLISHMENTS FOR PHASE 2 DEMVAL	LEVEL I	LEVEL IIIA
Revalidate the MNS.	X	X
Identify major trade-off opportunities for cost, schedule, and performance.	X	X
Perform tests to identify technologies or integration requirements which pose a risk.	X	X
Assess industrial capability to support the program.	X	X
Evaluate NDI/COTS as a viable technology for incorporation into system design.	X	X
Develop AP (if not already developed) and Obtain approval of AP (if not already approved)	X X	X X
Update AP for next phase.	X	X
Prepare an Acquisition Phase Summary.	X	X
Update APB (if required) and Appendix A.	X	X
Update LCCE.	X	X
Develop proposed exit criteria that must be satisfied before the next KDP can be approved.	X	X
Update and approve in accordance with OA procedures (if required): ORD CBA RMP TEMP ILSP	X X X X X	X X X X X

(2) **Acquisition Execution.**

(a) Objectives. The objectives of Phase 2 Acquisition Execution are:

OBJECTIVES FOR PHASE 2 ACQUISITION EXECUTION	LEVEL II	LEVEL IIIB
Develop an acquisition approach (if not already accomplished) to implement approved concept/alternative.	X	X
Execute approved concept/alternative.	X	X

(b) Minimum required accomplishments for Phase 2, Acquisition Execution. The Phase 2 minimum required accomplishments for Acquisition Execution are:

REQUIRED ACCOMPLISHMENTS FOR PHASE 2 ACQUISITION EXECUTION	LEVEL II	LEVEL IIIB
Develop AP (if not already developed)	X	X
and Obtain approval of AP (if not already approved)	X	X
Review AP annually and update as required.	X	X
Execute approved acquisition concept/alternative.	X	X
Review APB (including Appendix A) annually and update as required.	X	X

3. KDP 3 AND PHASE 3.

a. KDP 3 -- Approval to begin Full Scale Development.

(1) Decision criteria for KDP 3. Approval to proceed with the major acquisition will be based on the information produced in response to the questions listed below, as well as other information considered relevant by the TAE or the AAE.

DECISION CRITERIA FOR KDP 3	LEVEL I	LEVEL IIIA
Is the mission need still justified?	X	X
Do tests and demonstrations to date provide support that the technologies and processes critical to success are attainable and risks have been identified?	X	X
Is the proposed concept/alternative affordable in the context of the LRRAP process?	X	X
Are adequate resources available for the major acquisition or can they be acquired?	X	X
Have all exit criteria established at KDP 2 been satisfied?	X	X
Has the requisite documentation for Phase 2 been approved?	X	X

(2) Documentation to be submitted for KDP 3. The following chart lists the documentation requirements to be submitted to the TAE (Level I) and the AAE (Level III):

DOCUMENTATION FOR KDP 3	LEVEL I	LEVEL IIIA
Revalidated MNS.	X	X
Updated AP.	X	X
Acquisition Phase Summary.	X	X
Updated APB (if required) and Appendix A.	X	X
Updated LCCE.	X	X
Proposed exit criteria that must be satisfied before KDP 4 can be approved.	X	X

(3) Acquisition Decision Memorandum for KDP 3: The following chart lists the decisions for KDP 3 that must be documented by the TAE (Level I and II) and the AAE (Level III):

ACQUISITION DECISION MEMORANDUM FOR KDP 3	LEVEL I	LEVEL IIIA
Approve KDP 3 and authorize entry into Phase 3 (i.e., approve revalidated MNS).	X	X
Approve updated AP.	X	X
Approve updated APB (if required) and Appendix A.	X	X
Specify low-rate-initial-production (LRIP) quantities.	X	X
Specify if TSARC must authorize LRIP.	X	
Specify frequency of MARs.	X	
Establish exit criteria that must be satisfied before KDP 4 can be approved.	X	X

b. **PHASE 3 -- Full Scale Development.** Full Scale Development applies to Level I and IIIA major acquisitions.

(1) Objectives. The objectives of Phase 3 are to:

OBJECTIVES OF PHASE 3 FULL SCALE DEVELOPMENT	LEVEL I	LEVEL IIIA
Translate the most promising design approach developed in Phase 2 into a stable, producible, and cost-effective system design.	X	X
Demonstrate the manufacturing or production process.	X	X
Demonstrate that the system capabilities meet contract specifications and minimum acceptable operational performance requirements and satisfies the mission need.	X	X

(2) Minimum required accomplishments for Phase 3 Full Scale Development. The following chart lists the minimum required accomplishments for Phase 3:

REQUIRED ACCOMPLISHMENTS FOR PHASE 3 FULL SCALE DEVELOPMENT	LEVEL I	LEVEL IIIA
Revalidate the MNS.	X	X
Evaluate NDI/COTS as a viable technology for incorporation into system design.	X	X
Update the AP.	X	X
Prepare the Acquisition Phase Summary.	X	X
Successfully complete OT&E and obtain results under conditions as operationally realistic as possible.	X	X
Provide OT&E results to the Independent Oversight Organization.	X	X*

\*If required by the TAE at KDP 1.

REQUIRED ACCOMPLISHMENTS FOR PHASE 3 FULL SCALE DEVELOPMENT (CONT'D)	LEVEL I	LEVEL IIIA
Achieve LRIP success (if applicable) and: Verify the adequacy of the manufacturing or production process. Confirm the stability and producibility of the design. Provide a realistic estimate of production costs	X	X
Update APB (if required) and Appendix A.	X	X
Update LCCE.	X	X
Update and approve in accordance with OA procedures (if required): ORD CBA RMP TEMP ILSP	X X X X X	X X X X X

4. KDP 4 AND PHASE 4.

a. KDP 4 -- Approval to begin Full Production and Deployment.

(1) Decision criteria for KDP 4. Approval to proceed with the major acquisition will be based on the information produced in response to the questions listed below, as well as other information considered relevant by the TAE and the AAE.

DECISION CRITERIA FOR KDP 4	LEVEL I	LEVEL IIIA
Is the mission need still justified?	X	X
Do test results and (if applicable) low-rate initial production show that the design is stable and producible, that the system meets the appropriate operational requirements and has the potential to be operationally effective and suitable?	X	X
Is the major acquisition affordable in the context of the LRRAP process?	X	X
Are adequate resources available for the major acquisition or can they be acquired?	X	X
Have all exit criteria established at KDP 3 been satisfied?	X	X
Has the requisite documentation required for Phase 3 been approved?	X	X



(2) Documentation to be submitted for KDP 4. The following chart lists the documentation requirements to be submitted to the TAE (Level I) and the AAE (Level III):

DOCUMENTATION FOR KDP 4	LEVEL I	LEVEL IIIA
Revalidated MNS.	X	X
Updated AP.	X	X
Acquisition Phase Summary.	X	X
Independent Oversight Organization's OT&E report.	X	X
Updated APB (if required) and Appendix A.	X	X
Updated LCCE.	X	X

(3) Acquisition Decision Memorandum for KDP 4. The following chart lists the decisions for KDP 4 that must be documented by the TAE (Level I) and the AAE (Level III):

ACQUISITION DECISION MEMORANDUM FOR KDP 4	LEVEL I	LEVEL IIIA
Approve KDP 4 and authorize entry into Phase 4 (i.e., approve revalidated MNS).	X	X
Approve updated AP and specify requirements for future AP updates.	X	X
Approve updated APB (if required) and Appendix A.	X	X
Specify frequency of MARS.	X	

b. **PHASE 4 -- Full Production and Deployment**

(1) Objectives. The objectives for Phase 4, Full Production and Deployment are:

OBJECTIVES OF PHASE 4 FULL PRODUCTION AND DEPLOYMENT	LEVEL I	LEVEL IIIA
Establish a stable, efficient production and support base.	X	X
Achieve an operational capability that satisfies the mission need.	X	X
Conduct follow-on testing to confirm and monitor performance and quality and verify correction of deficiencies.	X	X
Logistics are in place to support items.	X	X

(2) Minimum required accomplishments for Phase 4. The following chart lists the minimum required accomplishments for Phase 4:

REQUIRED ACCOMPLISHMENTS FOR PHASE 4 PRODUCTION AND DEPLOYMENT	LEVEL I	LEVEL IIIA
Produce and deploy items and/or systems.	X	X
Execute operational and support plans, including transition from contractor to in-house support if applicable.	X	X
Update AP, if necessary.	X	X
Update APB (if required) and Appendix A.	X	X
Maintain as necessary in accordance with OA procedures:		
ORD	X	X
CBA	X	X
RMP	X	X
TEMP	X	X
ILSP	X	X

## **C. PROGRAM MANAGEMENT.**

1. **Acquisition Program Baseline (APB).** An APB is required for all acquisitions. The APB establishes the "top level" requirements that are critical to the program's success and is designed to enhance program stability and control costs. The APB is established at KDP 2 and sets the cost, schedule and performance critical requirements for the remaining phases of the overall program and includes an Appendix A which sets a cost baseline for the upcoming phase of the program. See Section IV, Acquisition Program Baseline for further detail on the APB.

### **a. Changes to the baseline(s).**

(1) **Baseline changes caused by factors other than a Baseline Breach.** Baselines may be modified as the result of programmatic changes dictated by Congressional direction, the desire to incorporate new and more beneficial technologies, and/or changes in user/sponsor requirements, etc. which create a change to the performance, cost, and/or schedule parameters.

(2) **Baseline changes caused by a Baseline Breach.** A breach of the baseline occurs if the threshold for the performance parameters cannot be achieved, or the range(s) for cost or schedule is exceeded.

### **b. Reporting.**

(1) Whenever a Program Manager (PM) believes that an unfavorable trend has developed within the program such that, left untreated, a baseline breach will occur, or whenever programmatic changes require a modification to the program's current parameters, and/or the costs associated with the upcoming phase, the PM will prepare a deviation report for the program and/or the phase as applicable (see Section IV, Documentation, for a discussion on Program/Phase Deviation Reports). The deviation report shall:

(a) address the baseline parameter(s) that will no longer be achieved, the reasons they will not be achieved, and, for a baseline breach, the proposed steps being taken to address the problems identified.

(b) have attached the proposed change showing the last approved baseline(s), the proposed new baseline(s), and the reason for the change with its impact on the program.

(c) be submitted to the AAE.

(2) Whenever a PM believes that an unfavorable trend has developed within the program such that, left untreated, a baseline breach could occur, the PM should notify the AAE in writing. Potential baseline breaches and their resolution shall be addressed at the next Major Acquisition Review to keep the cognizant acquisition executive apprised of program progress and to request assistance in solving program problems as necessary.

(3) Within 60 days of the deviation report receipt, the AAE shall notify the TAE of the change, reason for the change, and, for a breach, any proposed corrective action. Included with the notification will be a copy of the deviation report and a proposed revision to the APB.

c. **Revised Baseline Approval.** A decision on a request for a change to the baseline(s) shall be made by the TAE (Level I and II acquisitions) or the AAE (Level IIIA and IIIB acquisitions) within 30 days after receipt of the request.

2. **Contract Performance Measurement.** Reporting of contract cost and schedule performance shall be required for all major acquisitions except those using firm-fixed-price contracts or firm-fixed-price with economic price adjustment contracts. The PM shall select the appropriate cost and schedule measurement system to be utilized for the acquisition in accordance with OA procedures. The type of contract performance measurement data to be obtained shall be addressed in the AP for each program. Whenever possible, the contractor's existing system of tracking cost and schedule shall be used. The contractor's performance reporting management system must produce data that:

a. relate time-phased budgets to specific contract tasks and/or statements of work;

b. indicate work progress;

c. properly relate cost, schedule, and technical accomplishment;

d. are valid, timely and auditable;

e. supply information at a practical level of summarization; and

f. are derived from the same internal management control systems used by the contractor to manage the contract.

### 3. Major Acquisition Reviews (MAR)

a. During each acquisition phase, the OA shall provide periodic MARs for TSARC members and their staffs. MARs may be held separately or combined with internal OA reviews. The MARs are required for each Level I and II acquisition and for those Level III acquisitions specified by the TAE. The frequency of the MARs shall be specified by the TAE in the Acquisition Decision Memorandum for each KDP.

b. The purpose of a MAR is to have the Program Manager provide attendees with a complete and current status of the program. While the format for the MAR may be in accordance with OA procedures, the following information should be addressed at some time during the briefing or in the briefing material provided to the attendees:

(1) Program Summary. The mission of the program (what capability it will provide, what problem it will solve and who is the sponsor/user organization) should be clearly described. The quantity of systems/equipment to be acquired, if known, should be identified. The current acquisition phase of the program, when the previous KDP was approved, and when approval will be sought for the next KDP should be included.

(2) Achievements since last MAR. The MAR should highlight significant progress since the last MAR and identify the status of any action items.

(3) Performance. The briefing should summarize technical, cost, and schedule performance status/progress against the approved APB. Potential baseline changes should be discussed.

(4) Documentation status. The briefing should provide the planned and actual delivery date for each document or update required in Section II herein. The Program Manager should address any issues preventing the on-time completion of a document as well as any potential impact on the program.

(5) Risk Assessment. A summary should be provided which shows the assessment of overall programmatic risks for technical, schedule, and cost and an explanation of that assessment.

(6) Total Program Schedule. The initial and current schedule for the program should be provided, with all KDPs and key program events identified. Any important events required in the next six months should be highlighted.

(7) Program Funding. The briefing should include the funding history and projections for the program, covering R&D funds, acquisition (e.g. F&E; AC&I) funds, and operations funds. This should include a comparison of the budgeted amounts to current estimates, identifying funding surplus or shortfall for each fiscal year.

(8) Contract Information. All funding information for each active contract should be identified, showing the original and current contract amounts. A status of all undefinitized actions and key option exercise dates should be included.

(9) Concerns or Key Issues. The Program Manager should identify and describe each important technical, cost, and schedule concern that has surfaced in the program and remains unresolved. There should be a discussion on the impact the concern has, or might have, on program execution and/or funding.

(10) Action Items. At the conclusion of the MAR, the Program Manager should summarize any action items for tracking and discussion at future MARs.

**SECTION III - TRANSPORTATION SYSTEMS ACQUISITION  
REVIEW COUNCIL (TSARC) PROCEDURES**





A. **PURPOSE.** The Transportation Systems Acquisition Review Council (TSARC) is an advisory body for the Transportation Acquisition Executive (TAE) on major acquisitions. The TSARC shall meet on a regularly scheduled basis, and at other times when directed by the TAE. At a minimum, the TSARC shall convene at KDP 1 for all major acquisitions and at subsequent KDPs for Levels I and II acquisitions to review the program documentation and advise the TAE on appropriate action to be taken.

B. **TSARC MEMBERS.** The TSARC consists of the members shown below: (Principals may be represented by their deputies except the Assistant Secretary for Administration (ASA) cannot be represented by his/her Deputy when the Deputy Secretary is not present.) In the absence of or in consultation with the TAE, the ASA may make key decisions.

1. The Deputy Secretary (Chairperson);
2. Assistant Secretary for Administration (Vice Chair);
3. Assistant Secretary for Budget and Programs;
4. Assistant Secretary for Policy and International Affairs;
5. General Counsel; and
6. Head of the Operating Administration requesting the action.

C. **TSARC SUPPORT.** The Director, Office of Acquisition and Grant Management, shall be the TSARC Executive Secretary. Special advisors may be called upon to assist the TSARC, as deemed necessary by the Chair.

D. **SCHEDULE.** The TSARC will meet on a regularly scheduled basis (generally monthly) to review:

1. Mission Need Statement (MNS) at Key Decision Point (KDP) 1 for all acquisitions covered by this document;
2. KDPs 2-4 for all Level I acquisitions and KDP 2 for Level II acquisitions;
3. Acquisition Plans (APs) for Levels I and II acquisitions; and
4. Other issues when directed by the TAE.

E. **TSARC MILESTONES.** The TSARC review will adhere to a strict milestone schedule as follows:

T minus 45 days - Documentation (i.e., MNS, AP, etc.) received by TSARC Executive Secretary from the OA;

T minus 38 days - TSARC Executive Secretary publishes agenda for upcoming TSARC;

T minus 30 days - Comments on Operating Administration (OA) submittal due from the TSARC members;

T minus 28 days - TSARC comments forwarded to OA;

T minus 20 days - Responses from the OAs to the TSARC comments due to TSARC Executive Secretary;

T minus 10 days - the TSARC presentations from OAs due in hard copy to the TSARC Executive Secretary with a list of the principal attendees from the OA to the TSARC Executive Secretary;

T minus 7 days - Briefing books due to TSARC members;

T - TSARC meeting held; and

T plus 5 days - Decision memorandum issued by TAE.

Once an item has been placed on the TSARC agenda (i.e., the request has been officially submitted at T minus 45), it will be discussed at the TSARC meeting as planned unless it has been determined by the TSARC Executive Secretary that the documentation submitted is deficient thereby warranting its return. If the determination is made to return the documentation, the TSARC Executive Secretary will notify the OA within 10 days of receipt by the TSARC. If comments and/or responses have not been received in accordance with the above schedule, the TSARC, when it convenes, will assess whether the information provided is adequate to proceed.

Normally, there will be a working meeting between the TSARC staff and the OA staff at T minus 30 to discuss comments of the TSARC members. Additional working meetings may be called at other times in the process on an as-needed basis.

The Chair may also schedule extra TSARC sessions or follow-up meetings if required.

F. **TSARC BRIEFING BOOKS.** The TSARC briefing books are prepared by the TSARC Executive Secretary to provide all the relevant documentation needed for the TSARC meetings.

They also document the TSARC review process, including, as a minimum:

1. the identification of decisions required at the upcoming TSARC meetings;
2. the status of prior TSARC direction for a program;
3. unresolved issues and issues where general consensus has been reached; and
4. the impact of various decision alternatives which were identified during the TSARC documentation review process.

**G. TSARC PRESENTATION FORMATS.** The TSARC agenda will normally include more than one program at each session. The OA presentation should be limited to about 15 minutes without questions. The presumption is that all participants in the TSARC meeting will be familiar with the program and issues. Extensive program history shall not be presented at the TSARC presentation except where it is directly related to an issue requiring TAE decision. If additional time will be required, the OA should advise the TSARC Executive Secretary no later than 10 days before the TSARC so the agenda may be adjusted appropriately. Attendance at the TSARC shall be limited to principals, briefers and essential staff.

The OA presentation shall follow the format for the appropriate category as described below. Briefings which do not fall into these categories should be structured to provide the same types of information. The three basic formats and the topics to be addressed (on separate briefing charts) are:

1. **KDP 1.** (15 minutes maximum)
  - a. Decision Requested - State the decision(s) requested such as: approval of the MNS, program designation, and authorization to proceed to the next logical phase.
  - b. Mission Need - Address mission deficiency in broad functional terms.
  - c. Current Capability - Explain how current capability is not meeting the mission need.
  - d. Planned Capability - Discuss planned capability in functional (not programmatic) terms.
  - e. Alternative Approaches - Discuss what alternatives will be considered to satisfy this need.

f. Resource Requirements - Explain the relationship to alternatives and the Long Range Resource Allocation Plan (LRRAP), and what is included in the estimate.

g. Acquisition Strategy Objectives.

h. Phase 1 Proposal - Discuss the Phase 1 Proposal including proposed cost, schedule, and acquisition strategy for Phase 1 (if applicable).

i. Key Issues.

j. Recommended Program Level.

k. Proposed Exit Criteria.

2. **KDPs 2 through 4.** (15 minutes maximum)

a. Decision Requested. State the decision(s) requested such as: approval to enter into the next acquisition phase; request reassessment of program designation.

b. Mission Need - Revalidate MNS or explain changes requested.

c. Current Program Status - Discuss where the program stands relative to the Exit Criteria established at the prior KDP.

d. Results of previous phase activities - Discuss the results of the previous phase activities including technical capabilities, technical risk, schedule, life cycle cost estimates, cost benefit analyses, testing, etc.

e. Acquisition strategy for the next phase.

f. Program Risk - Explain what the program risks are (cost, schedule, and technical) and how they are being addressed.

g. Total Program Funding Requirements - Identify any funding deficiencies (if applicable).

h. Affordability - Discuss supportability, cost drivers, major trade-offs and the relationship to LRRAP.

i. Acquisition Program Baseline (APB) - Identify the key parameters to be included in the baseline for cost, schedule, and performance (if applicable).

j. Next KDP - Discuss where the program is going and what events, including testing, will occur prior to the next KDP (if applicable).

k. Proposed Exit Criteria (if applicable).

l. Key Issues.

3. **AP Approval.** (15 minutes maximum)

a. Decision Requested - Provide a short program description and the decision requested.

b. Current Status of Program - Describe the acquisition strategy and the results of that strategy which brought the program to its present point.

c. Proposed Contracting Strategy - Discuss competition, contract type, contractor performance measurement.

d. Acquisition Strategy Goals and Objectives - Address logistics support, configuration management, training, and test and evaluation.

e. Total Program Funding Requirements - Identify funding required for proposed acquisition strategy.

f. Key issues.



## **SECTION IV - DOCUMENTATION**

This documentation section includes the primary documents discussed in the major acquisition process outlined in Section II. Each document is divided into five paragraphs: Purpose, Prescription, Approval, Distribution, and Contents. All documents which are to be submitted to the TAE shall be transmitted through the TSARC Executive Secretary.





## ACQUISITION DECISION MEMORANDUM

1. **PURPOSE.** The purpose of the Acquisition Decision Memorandum (ADM) is to document the decisions of the cognizant acquisition executive and specify any conditions for performance during the next phase.
2. **PRESCRIPTION.** The ADM is to be prepared after each TSARC or AARC review.
3. **APPROVALS.**
  - a. KDP 1 - ADMs shall be issued by the TAE. For Level III acquisitions, the AAE may choose to issue a follow-on ADM addressing exit criteria, Phase I Proposal, etc.
  - b. KDP's 2-4 - ADMs shall be issued by the TAE for Levels I and II acquisitions and by the AAE for Level III acquisitions.
4. **DISTRIBUTION.**
  - a. ADMs issued by the TAE shall be forwarded to the TSARC members and the AAE.
  - b. One copy of all ADMs issued by the AAE shall be forwarded to the TSARC Executive Secretary within 10 days of AAE approval.
5. **CONTENTS.** The contents shall be in accordance with items in the ADM charts under Section IIB of this document for each applicable KDP.

## ACQUISITION PHASE SUMMARY

1. **PURPOSE.** The purpose of the Acquisition Phase Summary is to provide an executive summary of the results of the previous acquisition phase activities.

2. **PRESCRIPTION.** The Acquisition Phase Summary shall be submitted at each KDP, beginning with KDP 2.

3. **APPROVAL.** The Acquisition Phase Summary is an informational document requiring no formal approval.

4. **DISTRIBUTION.** One copy of the Acquisition Phase Summary shall be submitted to the TAE via the TSARC Executive Secretary for Levels I and II acquisitions. One copy, if requested by the TAE, shall be submitted for Level III acquisitions.

5. **CONTENTS.** The format shall be in accordance with OA procedures. The contents of the Acquisition Phase Summary will vary with each KDP. The Acquisition Phase Summary shall:

a. Include an executive summary of the results of the required activities for the current acquisition phase. All activities for the acquisition phase identified in the Required Accomplishments chart in Section IIB of this document must be addressed.

b. Address the exit criteria established at the previous KDP and how they were or were not satisfied.

c. Include a written summary of the critical test results for the preceding acquisition phase for KDPs 3 and 4.

## **ACQUISITION PLAN (AP)**

1. **PURPOSE.** The purpose of an AP is to establish a disciplined, formally documented planning procedure for DOT major acquisitions. The AP is to address all known procurements associated with the major acquisition.

2. **PRESCRIPTION.** APs are required for all major acquisitions at or within 6 months after approval of KDP 2 as follows:

a. **Initial AP.** The initial AP must be approved prior to the release of a synopsis under FAR 5.2; issuance of a solicitation (draft or otherwise); transfer of funds within or outside DOT; or any other such action unless otherwise authorized by the Assistant Secretary for Administration. However, preliminary acquisition efforts (e.g., defining requirements; issuing market search synopses and draft specifications or statements of work; preparing, but not releasing, draft solicitations) may be performed before acquisition planning is completed. APs for all acquisitions shall be submitted, at the OA's discretion, either at KDP 2 or within six months after KDP 2 approval.

b. **AP Updates.** APs shall be reviewed at least once every twelve months (see paragraph 3.d. below). APs shall be updated: (1) when a significant change to the approved AP is contemplated (e.g., a new requirement, change in existing requirements, and/or change in acquisition strategy including contact type, cost growth); and (2) at each KDP.

### **3. APPROVALS.**

a. APs and updates for Level I and II acquisitions shall be endorsed by the AAE and approved by the TAE.

b. APs and updates for Level IIIA and IIIB acquisitions shall be approved by the AAE.

c. As part of the endorsement/approval of the AP, the AAE is responsible for ensuring that all requisite signatures as specified in the Federal Acquisition Regulation and OA procedures have been obtained.

d. When APs are reviewed annually to determine if an update is required (see paragraph 2.b. above) and it is determined that the current AP requires no change, the Program Manager shall certify to the AAE or designee that the information contained in the AP is accurate and complete and that no change is required.

#### 4. DISTRIBUTION.

The following distribution applies to APs and any updates:

a. for Levels I and II acquisitions - One copy of all APs and updates shall be submitted to the TAE via the TSARC Executive Secretary.

b. for Levels IIIA and IIIB acquisitions - One copy of all APs and updates shall be submitted to the TSARC Executive Secretary within 10 working days of the AAE approval.

c. for All Levels - One copy of the program manager's certification shall be submitted to the TSARC Executive Secretary within 10 working days after the review is completed and the determination is made that no changes are required.

#### 5. CONTENTS.

a. APs shall contain the applicable information in FAR 7.105 including addressing all planned procurements associated with the major acquisition. Each caption within FAR 7.105 is to be inserted in the AP. If a particular caption does not apply, the words "not applicable" shall be inserted after the caption.

b. When updates to the initial AP are provided, each revised page shall indicate the revision number and date on the bottom (e.g., "Revision 1, Oct. 1, 1992" indicates the first revision submitted on October 1, 1992) and contain an indicator (bar) on the side of the page to identify the change.

c. The AP must include a cover page which identifies the acquisition(s) covered and level designation and includes a signature block for the OA approving official. Other signatures on the cover page shall be in accordance with OA procedures. The OA approving official's signature on a transmittal memo does not meet this requirement.

d. In the AP, the OAs shall briefly summarize the key points and the status of the following documents in the sections identified below, as appropriate:

(1) LCCE (7.105(a)(3)(i));

(2) ORD (7.105(a)(4));

(3) RMP (7.105(a)(7));

(4) Contractor Performance Measurement (7.105(b)(9));

(5) TEMP (7.105(b)(11));

(6) ILSP (7.105(b)(12)); and

(7) LRIP (required when updating the AP for KDP 3 - include the need for LRIP and the proposed quantity and rationale for the quantity chosen) (7.105(b)(17)).

d. In addition to the requirements of FAR 7.105, OAs shall address the following in their respective FAR paragraphs:

(1) CBA (7.105(a)(3));

(2) DPA request (7.105(b)(18)).

## ACQUISITION PROGRAM BASELINES (APB)

1. **PURPOSE.** The APB provides quantified ranges for critical performance, cost and schedule parameters throughout the phases of the acquisition program and includes an Appendix A which provides a quantified range for costs associated with an upcoming phase beginning with Phase 2. The purposes of the APB are to: enhance program stability, control costs, and provide a reference point for measuring and reporting the status of program implementation.

2. **PRESCRIPTION.** The APB shall initially be developed by the Program Manager during Phase 1 for all acquisitions and submitted in support of KDP 2. The Program Manager may allow trade-off adjustments within the performance, cost, and schedule parameters, as long as the baseline is not breached or the parameter(s) exceeded. During each phase of the acquisition, the Program Manager shall maintain a record of the current status of the baseline parameters to identify and/or control baseline changes or potential baseline breaches. The APB shall be updated as necessary by the Program Manager except for Appendix A which is to be updated at each KDP or annually for Level II and IIIB acquisitions. If the APB is updated to only reflect changes to the cost associated with an upcoming phase, only Appendix A to the APB shall be submitted.

3. **APPROVAL.** APBs shall be approved by the TAE (for Level I and II acquisitions) or by the AAE (for Level IIIA and IIIB acquisitions).

4. **DISTRIBUTION.** One copy of the APB shall be submitted to the: (a) TAE (for Level I and II acquisitions); and (b) TSARC Executive Secretary for Level IIIA and IIIB acquisitions.

5. **CONTENTS.** Attachment 1 shall be the format used for the initial APB (including Appendix A) submission and updates including baseline changes or breaches. When Attachment 1 is updated, the columns identifying the original values and all previous changes shall be maintained. Attachment 2 shall be used to endorse any baseline changes.

a. **Performance.** Performance parameters are the top level critical requirements derived directly from the Operational Requirements Document. All parameters listed shall contain a threshold and an objective.

(1) A performance parameter's threshold is the minimum value necessary to provide an operational capability that will satisfy the mission need.

(2) A performance objective is a value beyond the threshold that should reflect an operationally meaningful, measurable, cost-effective, affordable, impact on operations or support beyond that provided by the threshold value. The objective for performance could be either higher or lower than the threshold value, depending on what will be measured. (For example, a system's minimum value may be to withstand a temperature of 20 degrees and its objective may be to withstand a temperature of 5 degrees. The 5 degree objective, even though numerically less than the threshold value, is better than the 20 degree minimum value). In some cases the threshold and objective could be the same.

b. Cost. There shall be a cost range for the overall program and for the upcoming phase of the program beginning with Phase 2. All parameters listed under cost shall contain a range of values that can be reasonably expected. The range shall be derived from the TAC. The range for cost is to reflect the best estimate for meeting the performance and schedule parameters and is based on different probabilities of success. The range shall be supportable, consistent with, and easily reconciled to, other cost estimates prepared for the program.

c. Schedule. All parameters listed under schedule shall contain a range. The range for each schedule parameter consists of a period of time (stipulated by dates) for which a key event (such as a KDP review, design review, or completion of a test activity) is likely to occur.

**PROGRAM XXX**  
**ACQUISITION PROGRAM BASELINE (FORMAT)**

REFERENCE: Operational Requirements Document dated \_\_\_\_\_.

(Enter below in tabular form performance baseline information.  
Objectives and thresholds must be entered.)

**SECTION A: PERFORMANCE**

Approved: MM/DD/YY

**CRITICAL**  
**PARAMETER**

**THRESHOLD**

**OBJECTIVE**

**CHANGE # \_\_\_\_\_/\***  
**KDP # \_\_\_\_\_**

List critical performance parameters with quantified threshold and objectives that must be met to meet mission needs. Performance objectives and thresholds will be derived from the ORD, and both thresholds and objectives must be entered. Performance includes operational, technical, and supportability parameters such as:

Accuracy	Speed
Range	Gross weight
Availability	Reliability
Maintainability	Transportability
Compatibility	Interoperability
Altitude	Crew Size

*\*If the baseline is changed, insert a column entitled, "Change # \_\_\_\_\_/KDP # \_\_\_\_\_" and list the change(s) under this columnar heading. A new column must be added each time the APB is changed.*

*For all changes caused by a breach, insert the word "Breach" directly after the parameter change.*

*When the APB is updated to reflect changes in the baseline, previous columns will not be revised to reflect actual results or changes in events.*

Attachment 1  
APB Formats



SECTION B: COST

Approved: MM/DD/YY

COST

ESTIMATE

RANGE

CHANGE #     /\*

KDP #           

Overall Program

Then Year \$\*\*

Total RDT&E

Total Acquisition

Total Quantities:\*\*

Enter a total cost range (by Then Year dollars in millions) using the TAC as a baseline. Cost data reflected in the baseline must select realistic cost estimates, but may not exceed the amounts in the LCCE. The basis for cost ranges must be defined.

After it is determined, enter a reasonable and supportable range of the total quantity to be acquired. In early phases, quantity ranges are to reflect the best estimate available.

*\*If the baseline is changed, insert a column entitled, "Change #     /KDP #     " and list the change(s) under this columnar heading. A new column must be added each time the APB is changed.*

*For all changes caused by a breach, insert the word "Breach" directly after the parameter change.*

*When the APB is updated to reflect changes in the baseline, previous columns will not be revised to reflect actual results or changes in events.*

*\*\* For information only. There are no deviation criteria for these values.*

SECTION C: SCHEDULE (DATES)

Approved: MM/DD/YY

CRITICAL

EVENTS

RANGE

CHANGE #        \ •

KDP #       

List the most critical dates (as a range) including KDPs, key test and evaluation dates, contract awards, first deployments, and other significant program dates. The following are illustrative examples only:

KDP 2	First delivery
DEM/VAL contract award	OT&E (start -- complete)
Mock-up/bread board complete	KDP 4
KDP 3	Production contract
Full scale development	awarded
contract awarded	Initial operational First
article/prototype	capability/operational
built	readiness date
DT&E complete	Operational Support Date
LRIP contract awarded	Final Delivery

*\*If the baseline is changed, insert a column entitled, "Change #       /KDP #       " and list the change(s) under this columnar heading. A new column must be added each time the APB is changed.*

*For all changes caused by a breach, insert the word "Breach" directly after the parameter change.*

*When the APB is updated to reflect changes in the baseline, previous columns will not be revised to reflect actual results or changes in events.*

## COST BASELINE FOR UPCOMING PHASE

Approved: MM/DD/YY

COST

ESTIMATERANGECHANGE #     /\*KDP #           Phase (enter phase no.)

Then Year

Total RDT&amp;E

Total Acquisition

Total Quantities:\*\*

Enter a total cost range (by Then Year dollars in millions) for the applicable phase using the TAC as a baseline. The basis for cost ranges must be defined.

*\*If the baseline is changed, insert a column entitled, "Change #     /KDP #     " and list the change(s) under this columnar heading. A new column must be added each time the cost baseline is changed.*

*For all changes caused by a breach, insert the word "Breach" directly after the change.*

*\*\*For information only. There are no deviation criteria for these values.*

**AAE ENDORSEMENT OF BASELINE CHANGE**  
(FORMAT)

Subject: (Insert name of program) Baseline Change Request and  
Deviation Report

(Insert name of program) requires a change to its current  
approved baseline, dated MM/DD/YY, for the following reasons.  
(Give reasons for the change and the impact on the program). The  
Program Deviation Report of the Program Manager is attached.

I have reviewed the Program Manager's deviation report and  
agree that the change(s), if necessary, are not recoverable.  
Accordingly, new baseline parameter(s) are attached.

I endorse the baseline change.

---

Administration Acquisition Executive

Date

Attachment 2  
Baseline Change  
Endorsement Format

## **COST BENEFIT ANALYSIS (CBA)**

1. **PURPOSE.** The CBA analyzes the relationship between the life cycle cost and the operational effectiveness of a concept/alternative which is technically feasible and can meet the mission need. The purpose of each analysis is to:

a. aid decision-making by clearly indicating the relative advantages and disadvantages of the concepts/alternatives being considered and the sensitivity of each concept/alternative to possible changes in key assumptions;

b. facilitate communications by early identification and discussion of reasonable concepts/alternatives among decision makers and staffs at all levels; and

c. document acquisition decisions by providing the analytical underpinning or rationale for decisions on a program.

2. **PRESCRIPTION.** CBAs shall be prepared for all alternatives analyzed during Phase 1. CBA updates shall be prepared in subsequent phases for each of the alternatives remaining in the program. After selection of the most feasible alternative, the CBA is to be updated when significant changes occur to any of the parameters initially used.

3. **APPROVAL.** All CBAs shall be endorsed by the AAE.

4. **DISTRIBUTION.** The distribution of the CBA and updates shall be in accordance with OA procedures. The CBA shall be made available to the TAE upon request of the TSARC Executive Secretary.

5. **CONTENTS.** The contents and the format for the CBA shall be in accordance with OA procedures. However, those procedures must include the following minimum guidelines:

a. **Mission Need Analysis.** Concepts/alternatives must be assessed to identify what operational capabilities would be gained (or foregone) by pursuing the proposed concepts/alternatives. Any constraints and assumptions that limit the viable concepts/alternatives to be pursued should be explicitly identified. These may change over time.

b. **System Interrelationships.** The CBA must consider all relevant systems and the effect they collectively will have in the prospective operational environment.

c. **Multi-Role Systems.** A system/item may accomplish significantly different functions at different times. The CBA should account for flexibility of this nature.

d. **Benefits.** Benefits should be defined to measure operational capabilities in terms of desired outcomes (e.g., lives saved, time saved). Benefits should be related to performance measures such that the effect of a change in performance can be related to a change in benefits.

e. **Costs.** Life cycle costs associated with each alternative being considered are to be identified in the CBA. The life cycle costs used in the CBA should be the same as those identified in the LCCE.

f. **Cost-Benefits Comparisons.** The results of the costs and benefits should be arrayed for each alternative to show the marginal changes. Uncertainties should be clearly identified in the analysis.

g. **Sensitivity Analysis.** Sensitivity analyses should also be conducted as appropriate to highlight the magnitude of effects resulting from realistic possible changes or uncertainties in key performance criteria, operational scenario, or other baseline parameters.

## EXIT CRITERIA

1. **PURPOSE.** The purpose of the document is to identify program specific accomplishments that must be satisfactorily demonstrated before the program can progress further in an acquisition phase, or transition to the next acquisition phase. The exit criteria are directly related to and supplement the phase objectives, the required accomplishments of the phase, and the documents to be produced as described in Section IIB of this document.

2. **PRESCRIPTION.**

a. At each KDP through KDP 3, the OA shall propose exit criteria that must be satisfied during the subsequent acquisition phase. The cognizant acquisition executive will use the exit criteria as a measure in determining whether the program is ready to proceed at the next KDP. For example, the proposed exit criteria submitted at KDP 1 shall be applicable to activities to be accomplished during Phase 1 and will be evaluated by the cognizant acquisition executive before authorizing KDP 2.

b. Proposed exit criteria may be submitted as a separate document or as an appendix to the MNS/revalidated MNS. Proposed exit criteria shall be linked to the acquisition strategy objectives contained within the MNS and tailored to each acquisition phase.

3. **APPROVAL.** The cognizant acquisition executive shall approve exit criteria at KDP's 1 through 3. This shall be done by specific reference in the ADM, either approving the criteria in total or by documenting directed changes.

a. Proposed exit criteria for Levels I and II acquisitions shall be approved by the TAE.

b. Proposed exit criteria for Levels IIIA and IIIB acquisitions shall be approved by the AAE.

4. **DISTRIBUTION.** Copies of the proposed exit criteria shall be distributed as follows:

a. KDP 1: One copy for all acquisition levels to the TAE via the TSARC Executive Secretary;

b. KDPs 2 and 3: One copy for Levels I and II acquisitions to the TAE via the TSARC Executive Secretary; and

c. KDPs 2 and 3: Copies for Levels IIIA and IIIB acquisitions shall be distributed in accordance with OA procedures. Copies shall be made available to the TAE upon request of the TSARC Executive Secretary.

## 5. CONTENTS.

a. The format for the proposed exit criteria shall be in accordance with OA procedures. Exit criteria are different for each phase as well as each program. They must be tailored to program specific goals and objectives and relate to planned accomplishments and documents for the next phase.

b. Proposed exit criteria shall always include technical, schedule and cost elements and typically include such factors as:

(1) Test reports that contain critical test results that demonstrate operational and technical thresholds and performance parameters;

(2) Risk reduction goals;

(3) Completion of studies;

(4) Development/approval of documents; and

(5) Completion of key events/activities.



## INTEGRATED LOGISTIC SUPPORT PLAN (ILSP)

1. **PURPOSE.** The purpose of an ILSP is to:

- a. Identify support requirements that are related consistently to performance objectives, to design, and to each other;
- b. Effectively integrate support considerations into the system and equipment design;
- c. Identify the most cost-effective approach to supporting the system when it is fielded;
- d. Ensure that the required support structure elements are developed and acquired during the acquisition process; and
- e. Ensure continued attainment of performance objectives with economical logistics support throughout the life of the system.

2. **PRESCRIPTION.** An initial ILSP shall be prepared by the Program Manager during Phase 1 for Levels I and IIIA acquisitions. The ILSP shall be updated, as required, during each subsequent acquisition phase.

3. **APPROVAL.** ILSP and updates shall be reviewed and approved in accordance with OA procedures.

4. **DISTRIBUTION.** The distribution of an ILSP and updates shall be in accordance with OA procedures. The ILSP is to be made available to the TAE upon request of the TSARC Executive Secretary.

5. **CONTENTS.** The ILSP shall be prepared in accordance with OA procedures. The following are the subject areas which are to be addressed in a format specified by the OA. Actual content may vary in accordance with OA requirements.

a. **Maintenance Planning.** The process conducted to evolve and establish maintenance concepts/alternatives and requirements for the lifetime of the system.

b. **Manpower and Personnel.** The identification and acquisition of personnel with the skills and grades required to operate and support the system over its lifetime.

c. Supply Support. All management actions, procedures, and techniques used to determine requirements to acquire, catalog, receive, store, transfer, issue, and dispose of secondary items. This includes provisioning for both initial support and replenishment supply support. It includes the acquisition of logistics support for support and test equipment.

d. Support Equipment. All equipment (mobile or fixed) required to support the operation and maintenance of the system. This includes associated multi-use end items, ground handling and maintenance equipment, tools, metrology and calibration equipment, test equipment, and automatic test equipment.

e. Technical Data. Scientific or technical information recorded in any form or medium (such as manuals and drawings). Computer programs and related software are not technical data; documentation of computer programs and related software are. Also excluded are financial data or other information related to contract administration.

f. Training and Training Support. The analysis, design, development, implementation, and evaluation of training to support the system. This includes conducting needs analyses; job and task analyses; delivering individual and crew training resident and nonresident training; on-the-job training; job aids; and logistic support planning for training aids and training installations.

g. Computer Resources Support. The facilities, hardware, system software, software development and support tools, documentation, and people needed to operate and support embedded computer systems.

h. Facilities. The permanent, semipermanent, or temporary real property assets required to support the system, including conducting studies to define facilities or facility improvements, locations, space needs, utilities, environmental requirements, real estate requirements, and equipment.

i. Packaging, Handling, Storage, and Transportation. The resources, processes, procedures, design considerations, and methods to ensure that all system, equipment, and support items are preserved, packaged, handled, and transported properly, including environmental considerations, equipment preservation requirements for short and long term storage, and transportability.

j. Design Interface. The relationship of logistics related design parameters to readiness and support resource requirements. These logistics related design parameters are expressed in operational terms rather than as inherent values and specifically relate to system readiness objectives and support costs of the system.

## **LIFE CYCLE COST ESTIMATES (LCCE)**

1. **PURPOSE.** The purpose of LCCE is to identify the total cost to the Government of an item or system over its useful life, including development, procurement, operation, support, an end-of-service-life disposal.

2. **PRESCRIPTION.**

(a) The LCCE shall be submitted for all acquisition levels beginning at KDP 2 and updated at subsequent KDPs. The LCCE may be submitted as a separate document or as an appendix to the AP.

(b) The LCCE for each KDP should be as follows:

(1) **KDP 2.** At KDP 2, the Program Manager (PM) shall submit a LCCE for each technically feasible alternative.

(2) **KDPs 3 and 4.** At KDPs 3 and 4 the PM shall submit a detailed LCCE.

3. **APPROVAL.** The LCCE and updates shall be endorsed by the AAE in accordance with OA procedures.

4. **DISTRIBUTION.** A copy of the LCCE (for Levels I and II acquisitions) and updates shall be provided to the TAE at each KDP after KDP 1. The distribution of the LCCE for Level III acquisitions shall be in accordance with OA procedures.

5. **CONTENTS.** The format for a LCCE shall be in accordance with OA procedures.

a. The LCCE, at a minimum, shall:

(1) Include total acquisition costs, regardless of funding source or management control;

(2) Include the entire program as currently planned, rather than limiting costs to an arbitrary term of years;

(3) Include all cost categories and appropriations;

(4) Include all applicable budget accounts and categories;

(5) Include the value of items procured for some other purpose, but used on the system; and

(6) Cover all alternatives that are being considered for the decision at hand.

b. For Levels I and IIIA acquisitions:

(1) Estimates shall be based on program objectives, operational requirements, and contract specifications for the system and shall identify all elements of cost that will be entailed by a decision to proceed with development, production, and operation and support of the item or system.

(2) The documentation in support of LCCEs shall provide sufficient information about the way the estimates were developed and the rationale for any assumptions made so that the estimates can be analyzed and reviewed by an independent source.

## **LONG RANGE RESOURCE ALLOCATION PLANNING (LRRAP) INFORMATION**

1. **PURPOSE.** The purpose of the LRRAP information is to allow the cognizant acquisition executive to make realistic affordability decisions for each acquisition, both as an individual program and as an element of the total needs of the OA.
2. **PRESCRIPTION.** An LRRAP process that will generate the type of information required under paragraph 5 below must be in place no later than May 31, 1993. The LRRAP information required shall be submitted to the TAE via the TSARC Executive Secretary annually no later than 15 days after the OA has submitted the annual OST stage budget. Concurrent with its submission, the OA should be prepared to brief the TSARC members and staff on the LRRAP information. If a briefing is required, the AAE will be notified at least 30 days in advance of the expected submission.
3. **APPROVAL.** The HOA or designee (no lower than the AAE) shall ensure that an LRRAP process is established and shall validate the LRRAP information submitted to the TAE annually.
4. **DISTRIBUTION.** Two copies of the LRRAP information shall be provided to the TAE via the TSARC Executive Secretary.
5. **CONTENTS.** The LRRAP information may be in the format generated by the OA's planning system. However, at a minimum the following guidelines must be met:
  - (a) The LRRAP information must cover a 15 year projection of the OA needs that will be satisfied through major acquisitions. For the initial 10 year period, the information should identify existing and projected programs, their schedules and budget requirements (by fiscal year to the extent possible). For the last 5 year period, the information should cover existing programs that extend that far and projected programs. Budget data for projected programs during the last 5 year period may be in summary form (i.e., not by FY) and may include a range of values.
  - (b) The LRRAP information shall cover all major acquisitions regardless of appropriation. Acquisitions using operations funding need not be included until the 1994 submission.
  - (c) The LRRAP information must include enough data about the projected budgets in areas other than major acquisitions to be able to see the impact of decisions on major acquisitions on the overall OA planning profile.

(d) The LRRAP information must include a summary of the information provided (chart or tabular format is acceptable) to make the information accessible and useful for supporting decision making by the TAE or AAE at KDP's.

## **MISSION NEED STATEMENT (MNS)**

1. **PURPOSE.** The purpose of the MNS is to describe specific functional capability deficiencies which cannot be met with non-material solutions. The MNS is normally derived from a quantified, well-documented, objective mission analysis. Submission of the MNS initiates the major acquisition process.
2. **PRESCRIPTION.** When a deficiency is identified by the mission analysis, and the OA believes the deficiency can best be met by a major acquisition, a MNS shall be prepared. The MNS is normally prepared by the user/sponsor organization responsible for performing the mission function. The MNS shall be revalidated and updated whenever a change to the mission is identified and/or at each KDP.
3. **APPROVAL.** The TAE shall approve the MNS as part of KDP 1 and approve subsequent updates for Level I and II acquisitions. The AAE shall approve updates for Level III acquisitions. In those instances where a page change is necessary prior to approval by the TAE, the originator shall make the necessary change and have it initialled by the AAE prior to forwarding to the TSARC Executive Secretary. Approval of the initial MNS is required before funds will be included in the budget submitted to OMB.
4. **DISTRIBUTION.** One copy of the MNS or updates shall be submitted to the TAE via the TSARC Executive Secretary.
5. **CONTENTS.**
  - a. When updates to the initial MNS are provided, each page shall indicate the revision number and date on the bottom (e.g., "Revision 1, Oct. 1, 1992" indicates the first revision submitted on October 1, 1992). When a page change is provided, an indicator (bar) shall be placed on the side of the page to identify the change.
  - b. The MNS must include a cover page which identifies the acquisition and includes a signature block for the OA approving official. Other signatures on the cover page shall be in accordance with OA procedures. The OA approving official's signature on a transmittal memo does not meet this requirement.
  - c. The following format shall be used for all MNS submissions:



(1) Description of the Mission. Identify, in functional terms, the required mission. State the mission need in terms of functional capabilities desired and not in terms of equipment or other means which might satisfy the need. Cite the statutory and/or regulatory authority for the mission.

(2) Rationale for the Acquisition. Indicate why the acquisition is necessary and how it will be accomplished.

(a) Current Capability. Briefly summarize the current capability including existing assets.

(b) Planned Capability. State the mission need in terms of functional capability desired and not in terms of equipment or other means which might satisfy the need. Cite the results of the mission analysis supporting that a functional deficiency exists which creates the need for the planned capability.

(c) Proposed Alternatives. Discuss the alternatives considered or to be considered and the potential risks involved. Provide the key acquisition strategy objectives.

(3) Impact of Disapproving the Acquisition. Assess why it is not possible to accomplish the mission with existing capabilities and list any known constraints (including budget, personnel, operational, logistics and maintenance considerations, time factors, etc.). Discuss the ability to perform the mission with existing resources. Describe potential opportunities for technological enhancement, obsolescence of equipment, and cost savings.

(4) Resources Required. Provide rough-order-of-magnitude estimates for total acquisition costs at KDP 1 and, at subsequent KDP's, provide life-cycle cost goals for each alternative remaining in the program. Discuss the timing of the need and the general priority of this mission relative to other missions in the OA. Indicate if other Governmental agencies or OAs are impacted.

(5) Decisions Requested. Indicate what decisions are required of the TAE. Typical decisions for initial mission need approval may include:

- (a) Approval of the mission need;
- (b) Designation of the major acquisition as a Level I, II, or III; and
- (c) Proceeding to the next applicable KDP.

## OPERATIONAL REQUIREMENTS DOCUMENT (ORD)

1. **PURPOSE.** The ORD serves as a bridge between the operational and functional requirements spelled out in the MNS and the technical requirements which will govern development of the system. The ORD is a top level management document that provides the basis for the APB and is used to develop requirements for the system specification. The ORD defines the mission critical performance parameters that serve as the basis for all subsequent acquisition phases.

2. **PRESCRIPTION.**

a. An initial ORD is prepared by the user/sponsor during Phase 1 for the most promising system concept(s)/alternative(s). The initial ORD identifies top level, mission critical requirements in terms of minimum thresholds and operationally effective goals needed to develop and evaluate alternative system design concepts/alternatives. Based on the initial ORD, functional requirements and system concepts/ alternatives are analyzed and evaluated and the best system concept(s)/alternative(s) selected and described. The optimum capabilities resulting from these trade-off analyses are documented as mission critical performance objectives.

b. Depending on the developmental nature of the program, at a minimum, an initial ORD shall be in place at the end of Phase 1 to support the KDP 2 decision. The initial ORD must be refined into the formal ORD no later than the end of Phase 2 to support the KDP 3 decision. Once the formal ORD is established either at KDP 2 or KDP 3, it should be modified only as a result of a change in the MNS or cost-schedule-performance trade-offs. All changes to the ORD will be revalidated and updated by the user/sponsor. If changes to the ORD are made, the APB shall be reviewed for any impact on the APB.

3. **APPROVAL.** ORD approval shall be in accordance with OA procedures.

4. **DISTRIBUTION.** The distribution of the ORD shall be in accordance with OA procedures. The ORD shall be made available to the TAE upon request of the TSARC Executive Secretary.

5. **CONTENTS.** The format for the ORD shall be in accordance with OA procedures. As a minimum, the content shall include the following:

a. The top level mission critical performance requirements shall be expressed as the minimum acceptable requirements (threshold) to satisfy operational needs and the proposed performance objectives (optimum) to define an operationally effective system. The mission critical performance parameters established by the ORD will be incorporated into the APB, and the ORD will provide input for the development of the TEMP and Operational Test and Evaluation critical operational and performance thresholds.

b. The ORD shall contain, as a minimum: (1) a general description of the operational capability; (2) a description of the overall mission area and the anticipated operational and support concepts/alternatives; (3) critical operational issues; (4) the capabilities required (e.g., system performance, logistics); (5) infrastructure support (e.g., interfacing systems, environmental support); and (6) the critical system characteristics.

## **PHASE 1 PROPOSAL**

1. **PURPOSE.** The purpose of the Phase 1 Proposal is to provide brief planning information and the acquisition strategy for acquisitions going into Phase 1.
2. **PRESCRIPTION.** The Phase 1 Proposal shall be submitted at KDP 1 or within six months of KDP 1 approval for all acquisition levels. It may be submitted as a separate document or as an appendix to the MNS. The Phase 1 Proposal must be approved prior to the release of a synopsis under FAR 5.2; issuance of a solicitation (draft or otherwise); or transfer of funds within or outside DOT, for Phase 1 activities unless otherwise authorized by the Assistant Secretary for Administration.
3. **APPROVAL.** The Phase 1 Proposal shall be approved as follows:
  - a. Levels I and II acquisitions shall be approved by the TAE.
  - b. Levels IIIA and IIIB acquisitions shall be approved by the AAE.
4. **DISTRIBUTION.** If the Phase I Proposal is submitted at KDP 1, one copy of the Phase 1 Proposal shall be submitted to the TAE via the TSARC Executive Secretary. If the Phase I Proposal is submitted after KDP 1:
  - a. One copy shall be submitted to the TAE via the TSARC Executive Secretary for Levels I and II acquisitions.
  - b. Distribution shall be in accordance with OA procedures for Level III acquisitions. One copy of the approved Phase I Proposal, if requested by the TAE, shall be submitted to the TSARC Executive Secretary for Level III acquisitions.
5. **CONTENTS.** The contents of the Phase 1 Proposal shall include the following:
  - a. Concepts/alternatives to be explored (provide only a listing; do not repeat the descriptive material in the MNS).
  - b. Cost estimate for Phase 1 (funds, personnel, cost ceiling, source for resources).
  - c. Acquisition strategy for Phase 1 including proposed milestones.

The format for the Phase 1 Proposal shall be in accordance with OA procedures.

## **PROGRAM/PHASE DEVIATION REPORT**

1. **PURPOSE.** A deviation report is to provide notification that the baseline parameter(s) (including the cost baseline for an upcoming phase) of the APB (including Appendix A) need to be changed.
2. **PRESCRIPTION.** A deviation report shall be prepared for the program (Program Deviation Report (PDR)) and/or the phase (Phase Deviation Report (PhDR)) as soon as the Program Manager (PM) believes that a change to the baseline is necessary. The deviation report shall be attached to the baseline revision submitted to the approving official.
3. **APPROVAL.** The deviation report shall be prepared by the PM and submitted for OA approval to the AAE. Within 60 days of the deviation report receipt, the AAE shall notify the TAE (for Level I and II acquisitions) of the change, reason for the change, and, for a breach, any proposed corrective action. Changes to the baseline shall be made by the TAE (for Level I and II acquisitions) and by the AAE (for Level IIIA and IIIB acquisitions) within 30 days after receipt of the request.
4. **DISTRIBUTION.** One copy of the deviation report shall be submitted to the: (a) TAE for Level I and II acquisitions via the TSARC Executive Secretary; and (b) TSARC Executive Secretary for Level IIIA and IIIB acquisitions. (This shall be accompanied by the AAE endorsement of the Acquisition Program Baseline Change.)
5. **CONTENTS.** The deviation report shall be submitted in accordance with the attached format.

(Enter "PROGRAM" or "PHASE") DEVIATION REPORT (FORMAT)

Subject: (Insert name of program followed by the word(s)  
"Program" and/or "Phase" as applicable) Deviation  
Report

(Insert name of program) has changed from its current  
approved baseline, dated MM/DD/YY, for the following reasons.  
(Give reasons for the change and its impact on the program).

(Describe alternatives considered, other than changing the  
approved acquisition program baseline, the alternative recom-  
mended and why, or the reasons for not adopting any of these  
alternatives.)

I request approval for the acquisition baseline change(s) as  
attached.

---

Program Manager

Attachment  
PDR/PhDR Format

## **PROGRAM MANAGER (PM) CHARTER**

1. **PURPOSE.** The PM Charter shall specify the responsibility, authority, and accountability of the PM.
2. **PRESCRIPTION.** The PM Charter shall be prepared in Phase 1.
3. **APPROVAL.** The PM Charter shall be approved in accordance with OA procedures.
4. **DISTRIBUTION.** The PM Charter shall be distributed in accordance with OA procedures. The PM Charter is to be made available to the TAE upon request of the TSARC Executive Secretary.
5. **CONTENTS.** The contents of the PM Charter shall be in accordance with OA procedures. At a minimum, the charter shall identify the scope of the PM's authority and lines of accountability.

## **RISK MANAGEMENT PLAN (RMP)**

1. **PURPOSE.** The purpose of the RMP is to develop a structured approach to managing program risks.
2. **PRESCRIPTION.** RMPs are required to be developed by the PM for Levels I and IIIA acquisitions. The initial RMP is to be developed in Phase 1 and updated as appropriate during each subsequent acquisition phase.
3. **APPROVAL.** The RMP and any updates shall be approved in accordance with OA procedures. The RMP shall be made available to the TAE upon request of the TSARC Executive Secretary.
4. **DISTRIBUTION.** The distribution of RMP shall be in accordance with OA procedures.
5. **CONTENTS.**

a. At a minimum, the RMP shall:

- (1) specify management strategies for each risk element;
- (2) assess the possible negative impacts of each risk element (or aggregation of risk elements) on the program; and
- (3) specify the cost of the management strategies for each risk element.

b. The plan shall address critical parameters that are design cost drivers or have a significant impact on readiness, capability, and life cycle costs. These parameters shall be identified early and managed intensively.

c. The plan shall address how test and evaluation shall be used to determine system maturity and to identify areas of technical and operational risk.

d. The plan shall identify how solicitation documents will be structured to require contractors to identify risks and specify plans to assess and eliminate risks or reduce them to acceptable levels.



**TEST AND EVALUATION MASTER PLAN (TEMP)  
AND SUBSIDIARY TEST PLANS**

1. **PURPOSE.** The TEMP is the basic planning document for all test and evaluation (T&E) related to a particular program. The TEMP is a test and evaluation agreement between the user/sponsor, the developing organization, and the testing organization which establishes test schedules, test objectives and criteria, and resources required. Its primary purpose is to describe the necessary Developmental Test and Evaluation (DT&E) and Operational Test and Evaluation (OT&E) for each Level I and IIIA acquisition. The TEMP identifies all critical technical characteristics and operational issues and describes the objectives, responsibilities, resources, and schedules for all completed and planned T&E. The TEMP should support the performance requirements identified in the ORD.

2. **PRESCRIPTION.**

a. A TEMP shall be developed by the PM during Phase 1 for each Level I and IIIA acquisition only. The TEMP shall be updated during subsequent acquisition phases as necessary. The PM shall coordinate all aspects of T&E to ensure that DT&E objectives support OT&E objectives and that user/sponsor input is considered throughout the T&E process.

b. The TEMP shall include a DT&E and OT&E section. The intended user/sponsor organization shall participate in the development of the TEMP, in the conduct of OT&E, and in system design changes driven by the results of OT&E.

c. For all Level I acquisitions, and those Level IIIA acquisitions that the TAE has determined at KDP 1 that Independent Oversight of OT&E is required, the Independent Oversight Organization shall review and comment on the TEMP.

d. Subsidiary test plans for DT&E and OT&E, if applicable, shall be prepared in accordance with OA procedures.

e. Non-developmental items (NDI) (including Commercial-off-the-shelf (COTS) items) shall be tested to demonstrate compatibility with interfacing systems and to ensure that the items meet the functional requirements of the ORD. COTS requiring modification or which are intended to operate in a different environment than originally designed may require additional testing in order to verify performance and operational readiness.

3. **APPROVAL.** The TEMP and updates shall be approved in accordance with OA procedures. Subsidiary OT&E Plans and updates must be reviewed and commented on by the Independent Oversight Organization for Level I and applicable Level IIIA acquisitions.

4. **DISTRIBUTION.** The TEMP, updates and subsidiary test plans shall be distributed in accordance with OA procedures, with a copy of the TEMP to be provided to the Independent Oversight Organization, when applicable. The TEMP shall be made available to the TAE upon request of the TSARC Executive Secretary.

5. **CONTENTS.**

a. The TEMP shall be prepared in accordance with OA procedures. The initial TEMP shall focus on testing required for Phase 2 and early operational assessments. To the extent possible, the initial TEMP should estimate the key resources necessary to accomplish the DT&E and OT&E. Subsequent updates to the initial TEMP shall reassess and refine these initial estimates.

b. While the format will be in accordance with OA procedures, the following identifies the type of information that should be addressed in the TEMP or any subsidiary test plans:

1. **TEMP.**

a. **Introduction.** The TEMP should briefly summarize the mission of the program. The minimum acceptable operational performance requirements and the critical technical parameters from the ORD should be included. The system/item design, including key features and subsystems, interfaces with existing or planned systems, and critical system characteristics or unique requirements should be briefly defined.

b. **Program Summary.** The integrated test program schedule should be included along with a summary of the planned management and organization of the test program.

c. **Developmental Test and Evaluation.** The objectives of the DT&E should be identified and it should be explained how they will be met. Any completed DT&E should be identified, with a discussion of all remaining DT&E that is planned, beginning with the date of the current TEMP revision and extending through completion of production.

d. **Operational Test and Evaluation.** It should be explained how the planned program will demonstrate that the operational requirements will be met. The critical operational issues to be considered should be identified. Completed OT&E

should be identified (as it relates to critical operational issues) and there should be a discussion of future OT&E addressing the systems to be tested, the objectives, planned events, scope of testing and scenarios. There should also be a discussion of the test limitations that may impact the resolution of affected critical operational issues.

e. Summary of Test and Evaluation Resources. A summary of all key test and evaluation resources, both government and contractor, which will be used during the course of the program should be provided.

2. Subsidiary test plans. Any subsidiary test plans should include: test objectives, measures of effectiveness, planned operational scenarios, resources, test limitations, and methods of data gathering, reduction, and analysis. The planned test events should be described in sufficient detail to permit an assessment of operational realism.

## GLOSSARY OF ACRONYMS

AAE - ADMINISTRATION ACQUISITION EXECUTIVE  
AARC - ADMINISTRATION ACQUISITION REVIEW COUNCIL  
AC&I - ACQUISITION, CONSTRUCTION, AND IMPROVEMENT  
ADM - ACQUISITION DECISION MEMORANDUM  
AP - ACQUISITION PLAN  
APB - ACQUISITION PROGRAM BASELINE  
ASA - ASSISTANT SECRETARY FOR ADMINISTRATION

CBA - COST BENEFIT ANALYSIS  
COTS - COMMERCIAL-OFF-THE-SHELF

DEMVAL- DEMONSTRATION AND VALIDATION  
DOT - DEPARTMENT OF TRANSPORTATION  
DPA - DELEGATION OF PROCUREMENT AUTHORITY  
DT&E - DEVELOPMENTAL TEST AND EVALUATION

FAR - FEDERAL ACQUISITION REGULATION  
FIP - FEDERAL INFORMATION PROCESSING  
FIRMR - FEDERAL INFORMATION RESOURCE MANAGEMENT REGULATION  
F&E - FACILITIES AND EQUIPMENT

HOA - HEAD OF THE OPERATING ADMINISTRATION

ILS - INTEGRATED LOGISTICS SUPPORT  
ILSP - INTEGRATED LOGISTICS SUPPORT PLAN  
IOC - INITIAL OPERATIONAL CAPABILITY

KDP - KEY DECISION POINT

LCCE - LIFE CYCLE COST ESTIMATE  
LRIP - LOW-RATE-INITIAL-PRODUCTION  
LRRAP - LONG RANGE RESOURCE ALLOCATION PLANNING

MAPC - MAJOR ACQUISITION POLICY COUNCIL  
MAR - MAJOR ACQUISITION REVIEW  
MNS - MISSION NEED STATEMENT

NDI - NON-DEVELOPMENTAL ITEM

OA - OPERATING ADMINISTRATION  
OMB - OFFICE OF MANAGEMENT AND BUDGET  
ORD - OPERATIONAL REQUIREMENT DOCUMENT  
OST - OFFICE OF THE SECRETARY OF TRANSPORTATION  
OT&E - OPERATIONAL, TEST AND EVALUATION

PDR - PROGRAM DEVIATION REPORT  
PhDR - PHASE DEVIATION REPORT  
PM - PROGRAM MANAGER

## **GLOSSARY OF ACRONYMS (CONT'D)**

RDT&E - RESEARCH, DEVELOPMENT, TEST AND EVALUATION  
RMP - RISK MANAGEMENT PLAN

TAE - TRANSPORTATION ACQUISITION EXECUTIVE  
TEMP - TEST AND EVALUATION MASTER PLAN  
TSARC - TRANSPORTATION SYSTEMS ACQUISITION REVIEW  
COUNCIL  
T&E - TEST AND EVALUATION



## **CHAPTER 1235**

### **RESEARCH AND DEVELOPMENT CONTRACTING**

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#### **1235.010 Scientific and technical reports.**

When the statement of work calls for a scientific and technical report which presents interim and final results of Research and Development (R&D) work, the contracting officer shall ensure the DOT document DOT-TST-75-97 (Appendix 1 to DOT Order 1700.18 series, Acquisition, Publication and Dissemination of DOT Scientific and Technical Reports) is included in the contract.

#### **1235.014 Government property and title.**

(b) The authority of the agency head to authorize deviations to the FAR policy regarding title to equipment purchased by the contractor under (FAR) 48 CFR 35.014(b) is delegated to the HCA for individual deviations and to the SPE for class deviations.

#### **1235.017 Federally Funded Research and Development Centers.**

##### **1235.017-2 Establishing or changing an FFRDC.**

(j) The authority of the head of the sponsoring agency for DOT FFRDCs to establish or change the basic purpose and mission of an FFRDC under (FAR) 48 CFR 35.017-2(j) is delegated to the Assistant Secretary for Administration (M-1).

##### **1235.017-4 Reviewing FFRDC's.**

(b) The authority of the agency head of the sponsoring agency for DOT FFRDCs to continue or terminate the sponsorship under (FAR) 48 CFR 35.017-4(b) is delegated to the HOA.

**1235.017-7 Limitation on the creation of new FFRDC's.**

The authority of the agency head to submit to Congress a report concerning the purpose, mission, and general scope of the effort of the DOT FFRDC under (FAR) 48 CFR 35.017-7 is nondelegable.



## **CHAPTER 1236**

### **CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

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##### **SUBCHAPTER 1236.2--SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION**

###### **1236.201 Evaluation of contractor performance.**

(a)(4) The authority of the HCA, to establish procedures which ensures that fully qualified personnel prepare and review performance reports, is retained by the HCA.

(c)(1) Performance reports shall be distributed in accordance with OA procedures.

#### **1236.203 Government estimate of construction costs.**

(a) The Government estimate shall be designated "For Official Use Only" unless the nature of the information therein requires a security classification, in which event it shall be handled in accordance with applicable security regulations. The "For Official Use Only" designation shall be removed only when the estimate is made public in accordance with the instructions below.

(b) If the acquisition is by sealed bidding, a sealed copy of the detailed Government estimate shall be filed with the bids until bid opening. After the bids are read and recorded, the "For Official Use Only" designation shall be removed and the estimate shall be read and recorded in the same detail as the bids.

(c) If the acquisition is by negotiation, the following procedures apply:

(1) The overall amount of the Government estimate shall not be disclosed prior to award;

(2) At the time of award, the "For Official Use Only" designation on the Government estimate shall be removed; and

(3) After award, the Government estimate may be revealed, upon request.

#### **1236.206 Liquidated damages.**

Liquidated damages provisions are generally appropriate in construction contracts in accordance with the provisions of (FAR) 48 CFR Subpart 11.502.

#### **1236.208 Concurrent performance of firm-fixed-price and other types of construction contracts.**

The authority of the HCA, to approve the use of cost-plus-fixed-fee, price-incentive, or other types of contracts with cost variation or cost adjustment features concurrently at the same work site with firm-fixed-price, lump sum, or unit price contracts, is delegated to the COCO.

#### **1236.209 Construction contracts with architect-engineer firms.**

The authority of the head of the agency, to approve the award of a contract for the construction of a project to the firm that designed the project or its subsidiaries or affiliates, is delegated to the HCA or designee no lower than flag officer or SES level.

### **1236.212 Preconstruction orientation.**

(b) Form DOT F 4220.3 entitled "Preconstruction Conference Agenda and Checklist." or a similar checklist, shall be used as the agenda of, or checklist for, the preconstruction conference.

### **1236.212-70 Contracting with the National Institute of Building Sciences.**

(a) The National Institute of Building Sciences (NIBS) (see EARL) was chartered in 1974 to provide advice to the public and private sectors on issues involving new building technology and the building regulatory process. Pub. L. 93-383, Housing and Community Development Act of 1974, specifically authorizes agencies to contract with and accept contracts from the NIBS for specific services where deemed appropriate by the responsible Federal officials involved. NIBS provides assistance or advice on building-related matters by processing:

(1) On-line databases on current developments in building science and technology in areas such as architecture and engineering, products and materials, health and safety, and codes and standards; and

(2) Information pertaining to asbestos in public buildings and lead-based paint poisoning, energy efficiency in offices and industrial buildings, and seismic safety of buildings.

(b) Section 809(g)(3) of Pub. L. 93-383 expressly authorizes agencies and departments to contract with NIBS. In this regard, the exception to full and open competition at (FAR) 48 CFR 6.302-5 may be used, if the contracting officer determines this to be an appropriate exception, to award such contracts. However, the exception to full and open competition at (FAR) 48 CFR 6.302-1 should be used when it is determined that NIBS, because of its unique capabilities and charter, is the only source that will satisfy the requirement.

(c) The synopsis requirements at (FAR) 48 CFR 5.2 are applicable unless a waiver is granted pursuant to (FAR) 48 CFR 5.202(b).

### **1236.213-2 Presolicitation notices.**

The authority of the HCA, to waive the requirement to send presolicitation notices to prospective bidders on any construction requirement when the proposed contract is expected to equal or exceed \$100,00 is delegated to the COCO.

### **1236.213-70 Report of proposed Federal construction.**

(a) Section 1.4 of the Davis-Bacon Procedural Rules, 29 CFR Part 1, Procedures for Predetermination of Wage Rates, requires agencies using wage determinations under the Davis-Bacon Act, among other statutes, to furnish the Administrator, Department of Labor (DOL), a general outline of its proposed construction programs for the coming year indicating the

estimated number of projects for which wage determinations will be required, the anticipated types of construction, and the locations of construction.

(b) OAs shall use Form DOT F 1253.303-DOL-1671, Report of Proposed Federal Construction, to fulfill the requirements of TAM 1236.213-70(a). The report shall be submitted to M-60 not later than March 30 of each fiscal year. M-60 will consolidate all of the OA reports for transmittal to DOL. Negative reports are required.

## **SUBCHAPTER 1236.6--ARCHITECT-ENGINEER SERVICES**

### **1236.602 Selection of firms for architect-engineer contracts.**

#### **1236.602-1 Selection criteria.**

(b) The authority of the agency head, to approve the use of design competition, is delegated to the COCO.

#### **1236.602-2 Evaluation boards.**

The COCO shall establish an ad hoc A-E evaluation board for each acquisition of A-E services. For A-E acquisitions exceeding the simplified acquisition threshold, the following requirements apply in addition to those set forth in (FAR) 48 CFR 36.602-2:

(a) The A-E evaluation board shall be composed of the following members:

(1) One member with experience in acquisition of A-E services (normally the contracting officer or contract specialist/negotiator);

(2) One or more members with technical experience in the fields of architecture, engineering or construction (normally someone from the organization responsible for establishing the A-E work requirements);

(3) One member with technical knowledge of the functional (user) requirements of the project; and

(4) Other special members as are deemed necessary.

(b) A-E board members may be appointed from among highly qualified professional employees of other Government agencies or the private sector who are engaged in the practice of architecture, engineering, construction, or related professions.

### **1236.602-3 Evaluation board functions.**

The authority of the HCA, to direct the functions of the evaluation board delineated under (FAR) 48 CFR 36.602-3, is retained by the HCA.

(a) For A-E acquisitions exceeding the simplified acquisition threshold, the A-E evaluation board shall perform the following functions in addition to, or in combination with, those of (FAR) 48 CFR 36.602-3, and in the sequence indicated:

- (1) Analyze the nature and scope of the project work requirements.
- (2) Develop the evaluation criteria and rating systems to be used in screening firms for the pre-selection list and in the final selection. The screening criteria should be based on information provided by the SFs 254 and 255.
- (3) Prepare the public announcement (see (FAR) 48 CFR 5.205(d)) for the project and provide it to the contracting officer for publication.
- (4) Screen the SFs 254 and 255 and any other qualification data received in response to the public announcement of the project and prepare a pre-selection list of the best qualified firms for further consideration. The preselection list must consist of at least three firms.
- (5) When appropriate, obtain in writing more specific and detailed qualification, experience and past performance data (see (FAR) 48 CFR 36.602-1(a)) not provided by the SFs 254 and 255 which are needed to evaluate the firms using the established selection criteria. The firms should also be provided with a description of the nature and the scope of work to be accomplished to assist them in their responses. The A-E firms shall be advised not to submit price proposals, design sketches, drawings or design data at the time the qualification and past performance information is submitted.
- (6) Conduct interviews with the firms on the preselection list. As part of the interview, the A-E firms shall be given an opportunity to make an oral presentation of their qualifications and experience, proposed project approach and any other relevant data. The project manager and other key project personnel and consultants proposed by a firm should participate in the interview.
- (7) Whenever it is practical and advantageous, the A-E evaluation board should visit the offices of the A-E firms on the preselection list to inspect their facilities and work environments, to meet members of the proposed project team, and to see both work in progress and additional examples of completed projects.
- (8) Review the SFs 254 and 255 and other experience and qualification data for each firm on the preselection list, and perform a systematic numerical evaluation rating of the firms.

(9) Develop a rank order listing of at least three firms considered most highly qualified to perform the required work, based on the numerical evaluation ratings of the firms on the preselection list.

(10) Prepare a report which shall include in sufficient detail:

- (i) The extent of the board's review and evaluation;
- (ii) The list described in paragraph (i) of this section;
- (iii) Recommendations; and
- (iv) Considerations on which the recommendations are based.

(d) The authority of the agency head, to receive the report prepared by the evaluation board, is delegated to the COCO.

**1236.602-4 Selection authority.**

(a) The authority of the agency head, to make the final selection of the most highly qualified firms, is delegated to the COCO.

(b) The recommendations of the evaluation board will normally be approved, unless the report does not adequately support the recommendations. If recommendations are not approved, the A-E evaluation board shall be required to reconvene until an acceptable set of recommendations is agreed upon. The approved report shall serve as authorization for the contracting officer to commence negotiations with the A-E firm ranked number one by the A-E evaluation board.

**1236.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.**

OAs are authorized to use either of the short selection processes of (FAR) 48 CFR 36.602-5.

(b)(2) *Selection by the chairperson of the board.* The authority of the agency head, to review the selection report, is delegated to the COCO.

**1236.603 Collecting data on and appraising firms' qualifications.**

Because it is DOT policy to establish ad hoc evaluation boards instead of a permanent board to select A-E firms, each OA shall establish or designate an office or offices to meet the requirements of (FAR) 48 CFR 36.603(a).

#### **1236.604 Performance evaluation.**

(a)(5) The authority of the HCA, to ensure that fully qualified personnel prepare and review performance reports is retained by the HCA.

(c) Performance reports shall be distributed in accordance with OA procedures.

#### **1236.606 Negotiations.**

##### **1236.606-70 General.**

The limitation on A-E fees of six percent of the estimated construction cost (see (FAR) 48 CFR 15.903(d)) applies to all services that are an integral part of the production and delivery of plans, designs, drawings and specifications of a construction project. The limitation, however, does not apply to the cost of investigative and other services including but not limited to the following:

- (a) Development of program requirements (scope of work);
- (b) Determination of project feasibility;
- (c) Preparation of drawings of an existing facility, where current drawings are not available;
- (d) Subsurface investigations (soil borings);
- (e) Structural, electrical and mechanical investigations of an existing building, where current information is not available;
- (f) Surveys: topographic, boundary, utility;
- (g) Preparation of models, color renderings, photographs or other presentation materials;
- (h) Travel and per diem for special presentations;
- (i) Supervision and inspection of construction;
- (j) Preparation of operating and maintenance manuals; and
- (k) Master planning.

**1236.609 Contract clauses.**

**1236.609-1 Design within funding limitations.**

(c) The authority of the HCA, to determine in writing not to include clause (FAR) 46 CFR 52.236-22 in fixed-priced A&E contracts because: (1) cost limitations are secondary to performance consideration and additional project finding can be expected, if necessary, (2) the design is for a standard structure and is not intended for a specific location, or (3) there is little or no design effort involved.



## **CHAPTER 1237**

### **SERVICE CONTRACTING**

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##### **APPENDICES**

Appendix A	Checklist for Private Sector Temporary Personnel.
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##### **SUBCHAPTER 1237.1--SERVICE CONTRACTS--GENERAL**

###### **1237.106 Funding and term of service contracts.**

(b) The authority of the agency head to enter into a basic contract, options, or orders under that contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the basic contract, options or orders under that contract does not exceed one year each is delegated to the COCO with further authority to redelegate.

###### **1237.112 Government use of private sector temporaries.**

(a) *Definitions.* The following words and terms are used in and defined for this subsection.

"Critical need" means a sudden or unexpected occurrence; an emergency; a pressing necessity; or an exigency. Such occasions are characterized by additional work or deadlines required by statute, executive order, court order, regulation, or formal directive from the Secretary of Transportation or designee. A recurring, cyclical peak workload, by itself, is not a critical need.

"Federal supervisor" means an individual employed by DOT to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust

their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

"Parental and family responsibilities" means situations such as absence for pregnancy, childbirth, child care, and care for elderly or infirm parents or other dependents.

"Temporaries" means those employees of a temporary help service firm who are supervised and paid by that firm and whom that firm assigns to perform the contract work assignments.

"Temporary help service firm" means a contractor which provides services that are performed by its pool of employees possessing the appropriate work skills for brief or intermittent periods. The firm is the legally responsible employer and maintains that relationship during the time its employees are assigned to the contract. The firm recruits, tests, hires, trains, assigns, pays, provides benefits and leave to, and as necessary, addresses performance problems, disciplines, and terminates its employees. The firm is responsible for payroll deductions and payment of income taxes, social security (FICA), unemployment insurance, and worker's compensation, and any required liability insurance and bonding.

(b) *Policy.* Temporary help services may be acquired for the brief or intermittent use of the skills of private sector temporaries. The acquisition of these services are subject to the following conditions:

(1) The temporary will be performing the work of an employee who will be absent from the position for a temporary period (short-term) because of a personal need including emergency, accident, illness, parental or family responsibilities, or mandatory jury service.

(2) In the judgment of the head of the requesting office, the temporary help is for a critical need which cannot be delayed.

(c) *Exceptions.* Temporary help services cannot be acquired--

- (1) To displace a Federal employee;
- (2) For the work of managerial or supervisory positions;
- (3) For the work of or to fill an SES employee or position; or
- (4) To circumvent the regular recruitment and hiring procedures under the civil service laws for permanent appointment in the competitive civil service.
- (5) To circumvent controls on employment levels; or

(6) In lieu of appointing a surplus or displaced Federal employee as required by 5 CFR Part 330, Subpart F (Agency Career Transition Assistance Plan for Displaced Employees) and Subpart G (Interagency Career Transition Assistance Plan for Displaced Employees).

(d) *Certification of need.* The requirements office must submit Checklist for Private Sector Temporary Personnel (see EARL), with the procurement request (PR) for temporary help services. The entire checklist must be completed or the contracting officer shall reject the PR.

(e) *Acquisition and contract requirements.* The contracting officer shall comply, as applicable, with all of the policy and procedures of the FAR to acquire temporary help services by contract. The following limitations apply:

(1) The contract shall not create or imply an employer-employee relationship between the Government and the contractor's temporary, and the temporary shall not be eligible for civil service employee benefits, including retirement; and

(2) *Time limit on use of temporary help service firm.* The contract shall not require the use of a temporary help service firm in a single situation, as defined at TAM 1237.112(a), initially for more than 120 workdays. However, if the Government employee's absence or DOT critical need continues to exist beyond the initial 120 workdays, the temporary help services may be extended up to a maximum limit of 240 workdays.

(3) *Time limit on use of individual employee of a temporary help service firm.* The contract shall not require that a temporary at an office work for more than 120 workdays in a 24-month period. The 24-month period begins on the first day of assignment. However, the temporary may work up to a maximum of 240 workdays if it is determined that using the services of the same individual for the same situation will prevent significant delay.

(f) *Approval for extended services by the OA personnel office.* If the requiring office desires to retain the services of the same temporary help service firm beyond 120 workdays, or needs to use a temporary beyond the 120 workdays, the requiring office must submit information to the OA personnel office for approval. The OA personnel office should receive the notification at least 10 working days before the 120 workday period expires. The information required for submission is:

(1) A full justification for the extension beyond the 120 workday period;

(2) The new termination date or number of extra workdays needed;

(3) The total number of days worked by the current temporary and the reason for using the individual;

(4) The importance of the work to be done and the impact of delay or interruption; and

(5) The actions taken to find other solutions, and the availability of external and internal candidates.

(g) *Contract administration.* The office receiving the temporary shall ensure that an employer-employee relationship is not established with the contractor's temporary. However, technical advice, assignment of task, task-related instructions, office orientation, and review of the temporary's work products are necessary to ensure that the temporary performs the requisite services.

#### **1237.112-70 Stenographic reporting services.**

(a) The authority of the head of the agency under 5 U.S.C. 3109 (to procure stenographic services by contract) is delegated to the contracting officer.

### **SUBCHAPTER 1237.2--ADVISORY AND ASSISTANCE SERVICES**

#### **1237.203 Policy.**

##### **1237.203-70 Services of individual experts and consultants.**

(a) The authority of the head of the agency under 5 U.S.C. 3109 (to procure by contract the temporary or intermittent services of experts or consultants or an organization thereof, if such an acquisition is authorized by an appropriation or other statute) is delegated to the COCO.

(b) The rate of pay for services rendered by an expert or consultant is limited and cannot be exceeded unless specifically authorized by the appropriation or other statute which authorizes the acquisition of the services. The rate of pay for services rendered by a consultant to an advisory committee is governed by 41 CFR, Subpart 101-6.10.

(c) Since the statutes governing the acquisition of and rate of pay for these services are subject to change, the contracting officer shall seek the advice of the OA's legal counsel prior to taking action on the procurement request for such services.

##### **1237.203-71 Third party benefits.**

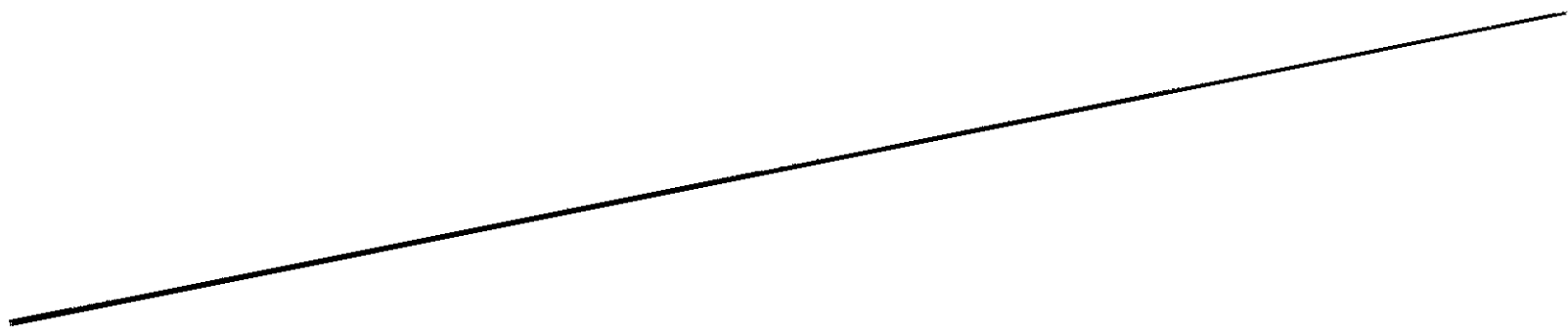
When a contract calls for providing technical assistance or advice that will benefit a third party, these services are advisory and assistance in the context of any regulation, statute, or guidance on these services. While these services may ultimately benefit an external or third party such as grantees or the states, the services are being acquired to accomplish the program objectives of DOT.

**1237.205 Contracting officer responsibilities.**

In addition to the requirement of (FAR) 48 CFR 37.205, the contracting officer shall ensure that the written, signed certificate required by (FAR) 48 CFR 52.209-8, Organizational Conflicts of Interest--Advisory and Assistance Services, is obtained from the apparent successful offeror prior to award. The certificate shall be reviewed and the appropriate action taken utilizing the guidance provided under (FAR) 48 CFR Part 9.

**1237.205-70 Accounting and information system.**

All advisory and assistance services shall be reported to the DOT Contract Information System in accordance with the procedures under TAM 1204.6.



## **CHAPTER 1238**

### **FEDERAL SUPPLY SCHEDULE CONTRACTING**

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#### **SUBCHAPTER 1238.1--FEDERAL SUPPLY SCHEDULE PROGRAM**

1238.101                      General.

#### **1238.000 Scope of part.**

The procedures for ordering from the GSA FSS contracts (see EARL) are set forth in (FAR) 48 CFR Part 8 and TAM Chapter 1208.

#### **SUBCHAPTER 1238.1--FEDERAL SUPPLY SCHEDULE PROGRAM**

#### **1238.101 General.**

(e) Multiple award schedules ((FAR) 48 CFR Part 8.404) contain no pricing information and neither contractor catalogs nor price lists are maintained or distributed by GSA. To initiate automatic receipt of contractor publications, ordering activities should send GSA Form 457 to GSA's Centralized Mailing List Service, P.O. Box 6477, Fort Worth, Texas, 76115. GSA will generate mailing lists, which are provided to contractors to distribute their catalog and/or price lists when FSS contract awards are made. A copy of GSA Form 457 is provided in TAM Chapter 1253 of the loose-leaf edition of the TAM.





## **CHAPTER 1239**

### **ACQUISITION OF INFORMATION RESOURCES**

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#### **1239.101 Policy.**

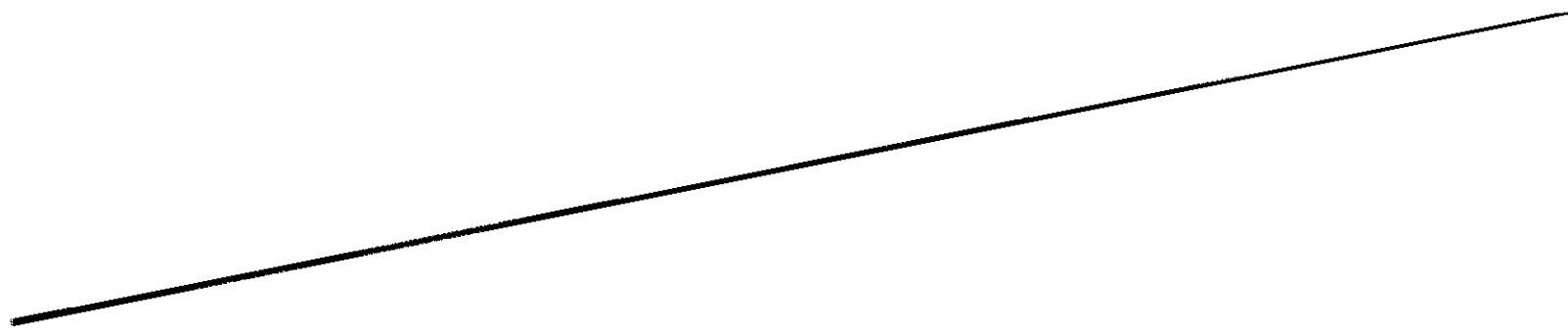
Guidance is contained in DOT H 1350.2, "Departmental Information Resources Management Manual (see EARL)," dated March 31, 1993, which is issued and maintained by the Office of the Chief Information Officer, S-80.



**TRANSPORTATION ACQUISITION MANUAL**

**CHAPTER 1240**

**(RESERVED)**



## **CHAPTER 1241**

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#### **SUBCHAPTER 1241.5--SOLICITATION PROVISION AND CONTRACT CLAUSES**

##### **1241.501 Solicitation provision and contract clauses.**

(a) The contracting officer may prepare and utilize variations of the provisions and clauses prescribed under (FAR) 48 CFR 41.501(b), (c), and (d) to accommodate specific circumstances which may exist for a proposed acquisition.



## **CHAPTER 1242**

### **CONTRACT ADMINISTRATION AND AUDIT SERVICES**

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1242.1500 Scope of subchapter.

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1242.7005	Termination.

## **1242.002 Interagency agreements.**

(c) On a yearly basis, DOT may negotiate a Memorandum of Understanding (MOU) <http://www.dot.gov/ost/m60/mous/> for contract administration and audit services with other Federal agencies. These MOUs serve as interagency agreements within the meaning of 48 CFR 42.

## **SUBCHAPTER 1242.1--CONTRACT AUDIT SERVICES**

### **1242.102 Assignment of contract audit services.**

(a) Contracting offices shall follow the procedures under the MOU as amended between DOT and the Department of Defense to order audit services.

## **0SUBCHAPTER 1242.2--CONTRACT ADMINISTRATION SERVICES**

### **1242.202 Assignment of contract administration.**

(a) *Delegating functions.* DOT has an MOU with the Department of Defense for contract administration support services. Contracting officers shall comply with the MOU when ordering services.

(c) *Delegating additional functions.*

(2) The authority of the HCA to approve the delegation of authority to the CAO, to issue orders under provisioning procedures in existing contracts and under basic ordering agreements for items and services identified in the schedule is delegated to the COCO.

## **SUBCHAPTER 1242.6--CORPORATE ADMINISTRATIVE CONTRACTING OFFICER**

### **1242.602 Assignment and location.**

The authority of the agency head under (FAR) 48 CFR 42.602(a) to approve the assignment of a corporate administrative contracting officer is delegated to the HCA or designee no lower than flag officer or SES level.



## **SUBCHAPTER 1242.7--INDIRECT COST RATES**

### **1242.703 General.**

#### **1242.703-1 Policy.**

DOT normally relies on the indirect cost rates established by DCAA and HHS unless the DOT Office of Inspector General (IG) and DCAA mutually agree that the IG or another agency will be the cognizant audit agency.

#### **1242.705 Final indirect cost rates.**

##### **1242.705-1 Contracting officer determination procedure.**

###### *(a) Applicability and responsibility.*

(3) When the business units are not included in (FAR) 48 CFR 42.705-1(a)(1) or (2), the ACO of the contract is the contracting officer responsible for obtaining or negotiating a rate as follows:

(i) If contract quick-closeout procedures are used, negotiate the rate using the guidance under (FAR) 48 CFR 42.704; and/or

(ii) Request assistance from the DOT IG, in accordance with DOT Order 8000.7 series, as may be implemented by OA procedures.

###### *(b) Procedures.*

(1) Contracting officers shall require the contractor to submit a copy of the contractor's final indirect cost rate proposal to the cognizant auditor.

##### **1242.705-3 Educational institutions.**

###### *(b) Predetermined final indirect cost rates.*

(3) The HCA is the level of approval for use of a predetermined final indirect cost rate under a contract with an educational institution when the conditions under (FAR) 48 CFR 42.705-3(b)(3) apply.

#### **1242.708 Quick-closeout procedure.**

(a)(2)(ii) Contracting officers may use the quick-closeout procedures for the settlement of indirect costs under contracts when the estimated amount (excluding any fixed fee) of the contract is \$3 million or less.

#### **SUBCHAPTER 1242.8--DISALLOWANCE OF COSTS.**

##### **1242.803 Disallowing costs after incurrence.**

(b) *Auditor receipt of vouchers.*

(1) At the discretion of the contracting officer, the contract may authorize the contractor to send vouchers directly to the cognizant auditor. If this authority is granted, the auditor shall be advised to send the voucher to the contracting officer with a recommendation concerning approval, disapproval, or suspension of payment. The auditor shall not be allowed to approve and forward vouchers to the payment office or to suspend payment of questionable costs.

(2) The auditor shall not be allowed to issue the contractor a notice of contract costs suspended and/or disapproved.

(3)(ii) When the contractor files a claim for unreimbursed costs under the Disputes clause of the contract, contracting officers shall process the claim in accordance with OA procedures.

#### **SUBCHAPTER 1242.11--TRAFFIC AND TRANSPORTATION MANAGEMENT**

##### **1242.1401 General.**

(b) Contracting officers shall contact their local or OA Headquarters transportation office for assistance concerning the tasks delineated under (FAR) 48 CFR 42.1401.

##### **1242.1403 Shipping documents covering f.o.b. origin shipments.**

(a) Contracting officers shall provide instructions in the contract to the contractor for obtaining a Government Bill of Lading (GBL). These instructions shall be coordinated with the local or OA Headquarters transportation office authorized to issue GBLs. To avoid delays in the shipment of items under the contract, the instructions shall require the contractor to provide the contracting officer with advance notification (in working days) of the need for the GBLs.

(b) When the contract authorizes the shipping costs to be shown as a separate item on the voucher/invoice, the contract shall reflect estimated shipping costs as a separate contract line item.

## **1242.1404 Shipments by parcel post or other classes of mail.**

### **1242.1404-1 Parcel post eligible shipments.**

(b)(1) The USCG is authorized under U.S. Postal Service Permit Imprint Number G-157, Agency Code 209, to use penalty indicia mail and may also authorize contractors to do so. However, contracting officers shall ensure that all contractor mailings are in accordance with the requirements described in paragraph 137.272 or Section 137.28 of the U.S. Postal Service Domestic Mail Manual. All other OAs must submit a deviation request, in coordination with the OA's mail management office to: U.S. Postal Service, Official and International Mail Accounting Division, Office of Accounting, Washington, DC, 20260-5230.

## **SUBCHAPTER 1242.15--CONTRACTOR PERFORMANCE INFORMATION**

### **1242.1500 Scope of subchapter.**

This subchapter provides policies and procedures for evaluating, maintaining, and releasing contractor performance information under DOT contracts.

### **1242.1502 Policy.**

The HCA is responsible for ensuring that a contractor performance evaluation system is established to meet the requirements of (FAR) 48 CFR 42.15. Consideration should be given to evaluating job orders, task orders and delivery orders which exceed \$100,000. Interim evaluations should be performed on contracts exceeding one year in duration. This will assist contractors with improving marginal performance and identifying any major deficiencies. It will also facilitate performance evaluations at contract completion, as well as determining whether to exercise contract options, if any. Performance evaluations should not be done if performance was completed prior to July 1, 1995.

### **1242.1503 Procedures.**

(a) The COCO or designee shall determine who will evaluate contractors' performance. Contracting officer's technical representative, contract specialists or administrators, and users are candidates likely to be selected to perform the evaluation. An evaluation (see EARL) should be obtained from a person who monitored contractor performance when that individual's assignment of duties or employment terminates prior to physical completion of the contract. The areas of performance to be selected for evaluation should be tailored to the type of supplies or services normally acquired by the contracting activities and the type of contract. HCAs shall ensure uniformity of the evaluation criteria within their contracting activities.

(c) (FAR) 48 CFR 42.15 provides prohibitions on the release of the performance evaluations or information. Freedom of Information Act (FOIA) requests for copies of evaluations must be

processed in accordance with FOIA, as implemented by DOT under 49 CFR Part 7 and any supplementing OA requirements. It is DOT's policy that all "non-Federal entities or personnel" are considered the public for the purpose of FOIA requests. When evaluation information is released to other Federal agencies, it should be provided with a written understanding that it is nonpublic information that must be evaluated under FOIA principles if a request for disclosure of the information is received.

(e) Even though the retention period for this source selection information is three years (see (FAR) 48 CFR 42.1503), the evaluation, any contractor rebuttal and OA decision becomes a part of the contract file. Therefore, disposal of the evaluation information must be accomplished in accordance with TAM 1204.805.

## **SUBCHAPTER 1242.70--CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE**

### **1242.7000 Contract clause.**

The Contracting Officer's Technical Representative (COTR) designation and contractor notification requirements referenced in (TAR) 48 CFR 1252.242-73 are contained in this subchapter.

### **1242.7001 Scope of subchapter.**

This subchapter provides policy and procedures concerning the selection, certification, appointment, and termination of a COTR.

### **1242.7002 Selection.**

Reserved.

### **1242.7003 Certification.**

Reserved.

### **1242.7004 Appointment.**

(a) Contracting officers may delegate technical representatives to perform certain functions during the term of the contract. These functions may include such things as inspecting, testing, accepting contract line items, surveilling the contractor's performance, controlling Government-furnished property, reviewing and approving and/or recommending to the contracting officer approval/disapproval of vouchers/invoices, etc.

(b) When it is decided to assign a COTR to a contract, a letter of appointment (see EARL) shall be addressed and sent to the person selected to serve as the COTR. A separate letter must be written for each contract, and must include the following information, as a minimum:

(1) Contracting officer's and contract specialist's/administrator's name and telephone number;

(2) Contract number;

(3) COTR's specific areas of responsibilities and authorities;

(4) COTR's specific limitations;

(5) Detailed description of the types of files and the content of the files to be maintained by the COTR;

(6) Emphasis on ethics, procurement integrity, conflict of interest, and standards of conduct, including a copy of (FAR) 48 CFR Part 3, (TAR) 48 CFR Part 1203, TAM Chapter 1203, and other regulations, statutes, or directives governing these topics (e.g., 5 CFR Part 2635 Standards of Conduct);

(7) Emphasis on unauthorized contract commitments;

(8) A requirement that the COTR acknowledge receipt and acceptance of the letter and return it to the contracting officer.

(c) The contractor shall be notified of the COTR designation (see EARL) in writing and a copy of the COTR letter of appointment (see EARL) also shall be provided to the contractor. The contracting officer shall provide the COTR with a copy of the COTR designation notification that was sent to the contractor.

#### **1242.7004-1 Limitations of a COTR.**

(a) Contracting officers shall not delegate to the COTR the following authorities:

(1) The authority to issue task or delivery orders against a contract or any of the agreements defined under (FAR) 48 CFR Subpart 16.7;

(2) The authority to change any of the terms and conditions of a contract or any of the agreements defined under (FAR) 48 CFR Subpart 16.7;

(3) The authority to sign contracts or contract modifications;

(4) The authority to write letters to the contractor that will impact the cost or schedule of the contract. The authority to otherwise write letters to a contractor must require the COTR to send a copy of the letters to the contracting officer for the contract file;

(5) The authority to approve contractors' vouchers under cost-reimbursement contracts. However, the COTR may review the vouchers and make payment recommendations to the contracting officer; or

(6) The authority to commit the Government to any adjustments to the price or cost of the contract or order (e.g., the contracting officer must sign all prenegotiation and price negotiation memoranda including those which may be combined into one document for those adjustments valued at \$100,000 or less.

#### **1242.7005 Termination.**

(a) Contracting officers shall issue a Notice of Termination of Appointment in writing to the COTR. A copy of the letter (or a separate notice of termination of appointment) shall be provided to the contractor.

(b) COTRs may be terminated for reasons (not all inclusive) such as exceeding their authorities and limitations, conflicts of interest, unethical conduct, failure to perform, reassignment/resignation/retirement, and upon completion of the contract to which assigned.

## **CHAPTER 1243**

### **CONTRACT MODIFICATIONS**

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1243.105                    Availability of funds.

##### **SUBCHAPTER 1243.70--UNDEFINITIZED CONTRACT ACTIONS**

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1243.7001                Definitions.  
1243.7002                Policy.  
1243.7003                Administration of UCAs.  
1243.7004                UCA monitoring system and report.

##### **SUBCHAPTER 1243.1--GENERAL**

###### **1243.105 Availability of funds.**

The contracting officer shall obtain a certified Form DOT F 4200.1, Procurement Request-Process Rapidly, from the requirements office to meet the conditions set forth in (FAR) 48 CFR 43.105.

##### **SUBCHAPTER 1243.70--UNDEFINITIZED CONTRACT ACTIONS.**

###### **1243.7000 Scope of subchapter.**

This subchapter sets forth the requirements for the administration of undefinitized contract actions as required by the House Appropriation Subcommittee on Transportation Report No. 101-584 (H.R. 5223).

###### **1243.7001 Definitions.**

"Undefinitized contract action" (UCA) means the following:

(1) Change Orders. All modifications/supplemental agreements issued under the "Changes" clause when the price for the change has not been negotiated;

(2) Maximum Priced Actions. All actions issued with a not-to-exceed limitation except for change orders and letter contracts; and

### (3) Letter Contracts.

"Value" means the ceiling amount of the action (i.e., the Government's estimated amount for the change order; the not-to-exceed amount cited on the maximum price action, or the limitation of the Government's liability on the letter contract).

#### **1243.7002 Policy.**

Contracting officers shall exert every effort to keep UCAs to a minimum.

#### **1243.7003 Administration of UCAs.**

Contracting officers shall negotiate the UCA and issue the definitized contractual document within six months after the UCA has been issued to the contractor. If this timeframe is not met, the contracting officer should document the contract file to state the reason for the delay.

#### **1243.7004 UCA monitoring system and report.**

(a) The HCA shall ensure that a system is developed and maintained to monitor UCAs. The COCO shall ensure that progress is being made to definitize the UCAs within the six-month period (except see (FAR) 48 CFR 16.603-2 for additional requirements for letter contracts.) Also, see TAM 1216.603-2(c) for COCO approval to extend the definitization schedule under letter contracts.

(b) OAs may be required to prepare UCA reports upon request from M-60. Therefore, the UCA monitoring system established by the OA should be able to provide, at a minimum, the total number and value of all change orders, maximum priced actions, and letter contracts.



## **CHAPTER 1244**

### **SUBCONTRACTING POLICIES AND PROCEDURES**

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##### **SUBCHAPTER 1244.3--CONTRACTORS' PURCHASING SYSTEMS REVIEWS**

1244.302 Requirements.

##### **SUBCHAPTER 1244.1--GENERAL**

###### **1244.102 Policy.**

(b) The waiver of consent requirements shall be in writing, signed by the contracting officer, and included in the contract file. The waiver shall include all supporting facts, including the rationale for waiving the consent to subcontract requirements.

##### **SUBCHAPTER 1244.2--CONSENT TO SUBCONTRACTS**

###### **1244.202 Contracting officer's evaluation.**

###### **1244.202-2 Considerations.**

The review required by FAR 44.202-2(a) shall be documented in writing (including supporting facts and rationale), signed by the contracting officer, and included in the contract file.

###### **1244.203 Consent limitations.**

Any limitations placed on the consent to subcontract shall be documented in writing (including supporting facts and rationale), signed by the contracting officer, and included in the contract file.

## **SUBCHAPTER 1244.3--CONTRACTORS' PURCHASING SYSTEMS REVIEWS**

### **1244.302 Requirements.**

The authority of the agency head, to raise or lower the \$25 million review level for a contractors' purchasing system review is delegated to the COCO.

## **CHAPTER 1245**

### **GOVERNMENT PROPERTY**

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- 1245.403            Rental--Use and Charges clause.
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- 1245.502            Contractor responsibility.
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- 1245.607            Scrap.
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- 1245.608-5        Special items screening.
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1245.610 Sale of surplus contractor inventory.  
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1245.610-4 Contractor inventory in foreign countries.

## **APPENDICES**

Appendix A Compliance Checklist for Contractors' Property Control System.

## **SUBCHAPTER 1245.1--GENERAL**

### **1245.104 Review and correction of contractor's property control systems.**

(a) Unless otherwise not in the best interest of DOT, property administrators shall accept the review and approval of a contractor's property control system by another Government agency (e.g., Department of Defense, Department of Health and Human Services, etc.). The contract file shall include the name of the agency/office which approved the contractor's system and the date approved.

(b) When the property administrator determines that review and approval of the contractor's property control system rests with DOT, the Government's property administrator shall review the system to determine whether the contractor will be able to meet the requirements of (FAR) 48 CFR Part 45. Appendix A, Compliance Checklist for Contractors' Property Control System, shall be completed, signed by the appointed property administrator, and retained in the contract file.

### **1245.105 Records of Government property.**

(a) Contracting officers shall maintain a file on Government property in the possession of the contractors. As a minimum, the file shall contain the following:

(1) A copy of the applicable portions of the contract that list the Government-furnished property (GFP);

(2) Contracting officer's letters assigning the Government property administrator to the contract;

(3) Written evidence that the contractor's property control system was reviewed and approved as required by (FAR) 48 CFR 45.104;

(4) If applicable, documentation of the request and approval or denial of the contractor's requests to acquire or fabricate special test equipment in accordance with (FAR) 48 CFR 45.307 or other property;

(5) The contractor's written notice of receipt of the GFP and any reported discrepancies thereto, as required by (FAR) 48 CFR 45.502-1 and 45.502-2, respectively;

(6) Any other documents pertaining to or affecting the status of the Government property in the possession of contractors or subcontractors under the contract;

(7) A copy of the contractor's annual and inventory reports of Government property as required by (TAR) 48 CFR 45.505-14 and (TAR) 48 CFR 45.508; and

(8) Documentation of the screening and disposal of all Government property as required by (FAR) 48 CFR Subpart 45.6.

## **SUBCHAPTER 1245.3--PROVIDING GOVERNMENT PROPERTY TO CONTRACTORS**

### **1245.302 Providing facilities.**

#### **1245.302-1 Policy.**

(a)(4) The authority of the agency head, to issue a D&F (based on the contractor's written assertion of inability to obtain facilities) that the contract cannot be fulfilled by an other practical means or that it is in the public interest to provide facilities, is delegated to the HCA or designee no lower than flag officer or SES level.

### **1245.307 Providing special test equipment.**

#### **1245.307-2 Acquiring special test equipment.**

(b)(2) Prior to permitting the contractor to acquire or fabricate special test equipment, the contracting officer shall screen existing Government-owned test equipment that may be available within DOT or at other Federal agencies. The OA's property officer, as defined in DOT Order 4410.4 series, Equipment Management and Control, should be contacted for assistance.

### **1245.309 Providing Government production and research property under special restrictions.**

(a) The authority of the HCA, to make the determination under (FAR) 48 CFR 45.309 concerning the construction or installation of Government production and research property, etc., is retained by the HCA.

(3) The authority of the agency head, to include in the contract, an alternate provision considered adequate to protect the Government's interests is delegated to the contracting officer.

## **SUBCHAPTER 1245.4--CONTRACTOR USE AND RENTAL OF GOVERNMENT PROPERTY**

### **1245.403 Rental--Use and Charges clause.**

The authority of the agency head, to determine it to be in the Government's interest, to charge on the basis of other than the rental period, rent for classes of production and research property other than plant equipment identified in (48) CFR 52.245-9, is delegated to the contracting officer.

### **1245.405 Contracts with foreign governments or international organizations.**

Contracting officers shall compute rental costs for the use of Government production and research property with foreign governments or international organizations in accordance with (FAR) 48 CFR 52.245-9, Use and Charges. See also OMB Circular A-25, User Charges (see EARL), as implemented by DOT Order 2300.1 series, Reimbursable Agreements, for guidance on the establishment of fees to recover costs.

### **1245.407 Non-Government use of plant equipment.**

The authority of the head of the agency, to approve non-Government use of active plant equipment exceeding 25 percent is delegated to the HCA.

## **SUBCHAPTER 1245.5--MANAGEMENT OF GOVERNMENT PROPERTY IN THE POSSESSION OF CONTRACTORS**

### **1245.502 Contractor responsibility.**

#### **1245.502-1 Receipts for Government property.**

Government property administrators shall require the contractor to provide a receipt for each item of GFP provided to the contractor.

#### **1245.505 Records and reports of Government property.**

##### **1245.505-2 Records of pricing information.**

(b) *Determining unit price.*

(2) *Government-furnished property.* To ensure that the unit price of the GFP is furnished to the contractor, contracting officers shall include this information in the contract (as defined under (FAR) 48 CFR 2.101) or by attachment thereto for each piece of GFP provided to the contractor.

#### **1245.505-6 Special reports of plant equipment.**

On a case-by-case basis, the contracting officer may require special reports of plant equipment. These requirements shall be set forth in the contract.

#### **1245.505-1470 Operating administration contract property report.**

(a) By October 31 of each year, each OA shall submit a consolidated contract property report to the Director, Office of Administrative Services and Property Management (M-40). The report shall contain the following information:

(1) The name and address of each contractor and subcontractor (if applicable) who has DOT property in their possession. Do not include property under grants, cooperative agreements, interagency agreements, or agreements with state or local governments;

(2) The contract number under which the property was provided by the Government or acquired by the contractor;

(3) The date the contractors' property control system was approved, and the name of the agency/office which approved the system; and

(4) The total acquisition cost and quantity and where applicable total acquisition cost and acres by contract, for each of the following categories of property as reported to the contracting officer by the contractors:

(i) Equipment;

(ii) Materials in stock (when the total value exceeds \$50,000); and

(iii) Real property.

(b) The above information may be extracted from Form DOT F 4220.43 which is required to be submitted to contracting officers by contractors. See (TAR) 48 CFR 1245.505-14.

#### **1245.505-70 Exemption from DOT Orders.**

Contracting offices are exempt from the requirements of DOT Order 2700.8 series, Accounting Principles and Standards and DOT Order 2700.12 series, Financial Management Control of Property. In lieu thereof, the contracting officer shall comply with the requirements of (FAR) 48 CFR Part 45 to manage and control Government property in the possession of contractors.

## **SUBCHAPTER 1245.6--REPORTING, REDISTRIBUTION, AND DISPOSAL OF CONTRACTOR INVENTORY**

### **1245.607 Scrap.**

### **1245.607-2 Recovering precious metals.**

Contracting officers shall comply with the DOT Precious Metals Recovery Program under DOT Order 4410.4 series, Equipment Management and Control.

### **1245.608 Screening of contractor inventory.**

#### **1245.608-3 Agency screening.**

The screening of property within the OA and DOT is the responsibility of the offices listed under TAM 1208.101. The contracting officer shall contact the appropriate OA office for guidance.

#### **1245.608-5 Special items screening.**

(a) *Special test equipment with standard components.*

(2) Contracting officers shall forward a copy of the SF 1432, Inventory Schedule for Special Tooling and Special Test Equipment, to the applicable office under TAM 1208.101 for screening through DOT. The purpose of the screening is to determine whether the listed items can be used within DOT. When any of the items listed on the SF 1432 are listed in Federal Property Management Regulation (FPMR) 41 CFR 101-43.304, the contracting officer shall ensure that the property officer reports the excess property to GSA for screening, concurrently with the screening within DOT.

(3) Contracting officers shall contact the applicable office under TAM 1208.101 for instructions on the procedures for donating or selling of standard components.

(c) *Printing equipment.* To ensure compliance with the regulations of the Joint Committee on Printing, contracting officers shall report all excess printing equipment to the Publications Services Division, Office of Administrative Services and Property Management (M-48). This includes all equipment for use in authorized printing plants and auxiliary equipment (i.e., composing machine, process camera folder, collator, cutter, drill, or other production equipment) for use with duplicators or copying equipment.

(d) *Procedures for automatic data processing equipment (ADPE).* ADPE (i.e., Federal Information Processing resources) shall be screened in accordance with DOT Order 4410.4 series, Equipment Management and Control.



#### **1245.608-6 Waiver of screening requirements.**

The authority of the agency head, to authorize exceptions from the screening requirements for compelling circumstances clearly in the Government's interest is delegated to the contracting officer, after coordination with the OA's property office.

#### **1245.610 Sale of surplus contractor inventory.**

##### **1245.610-2 Exemptions from sale by GSA.**

(a) The authority of the agency head to seek exemptions from the Administrator, GSA to explain the impairment or adverse affect of sale by GSA and justifying the need for the exemption is delegated to the OA's property management office.

##### **1245.610-4 Contractor inventory in foreign countries.**

Contractor inventory located in foreign countries shall be disposed of in accordance with (FPMR) 41 CFR 101-43.5, Utilization of Foreign Excess Personal Property.

**INSTRUCTIONS FOR COMPLETING  
COMPLIANCE CHECKLIST  
FOR  
CONTRACTORS' PROPERTY CONTROL SYSTEM**

1. The list of requirements on the checklist is a synopsis of the requirements cited under (FAR) 48 CFR Part 45, Government Property. The Government Property Administrator (PA) shall refer to the FAR for additional information concerning a specific requirement.
2. When the answer to a question on the checklist is "NO", the PA must attach an explanation of the deficiency and the action the contractor must take to correct the deficiency.
3. If the PA conditionally approves or disapproves the contractor's property control system, the PA shall follow the procedures of (FAR) 48 CFR 45.104.

# **COMPLIANCE CHECKLIST FOR CONTRACTORS' PROPERTY CONTROL SYSTEM**

REQUIREMENT	YES	NO	N/A	REFERENCE
<b>A. MANAGEMENT.</b>				
1. Has or will the contractor assign a property administrator to the contract to ensure that the requirements of (FAR) 48 CFR Subpart 45.5, (TAR) 48 CFR 1245, and the contract requirements will be met?				
<b>B. CONTROL.</b>				
1. For both the Government provided and contractor acquired property, is there a system for:  (a) Recording the receipt of property? (b) Recording the rejection of property? (c) Recording the acceptance of property? (d) Recording the property in the formal property account? (e) Marking property? (f) Recording and reporting overages? (g) Recording and reporting damages?				
2. Is there a system for providing a financial account to the Government property administrator of the Government-owned property?				
3. Is there a system or technique for locating any item of Government property within a reasonable time period after a request from the Government?				
4. Are the contractor's property records set up to provide the information required under (FAR) 48 CFR 45.505-1(a) through (g)?				
5. Is there a system for the immediate identification and reporting of excess (no longer needed Government property)?				
6. Does the contractor require that a physical inventory of Government property be made? If yes, circle how often is will be done:  Monthly; Quarterly; Semiannually; Annually				
7. Is there a system for the proper care and maintenance of Government property?				
8. Is there a system for providing an inventory schedule of the Government property?				
9. Will the property be stored in a secure area to prevent theft?				
10. Will the maintenance program ensure that the property operates or functions for the purpose intended?				

REQUIREMENT	YES	NO	N/A	REFERENCE
11. Will Government property be provided to or acquired by subcontractors?				
12. If the answer to 11. is "YES", has the contractor included (FAR) 48 CFR Part 45, (TAR) 48 CFR 1245, and the applicable property clauses in the subcontract(s)?				
13. If the answer to 11. is "YES", has the contractor reviewed and approved the subcontractor's property control system to ensure that the property control system requirements of (FAR) 48 CFR Subpart 45.5, (TAR) 48 CFR 1245, and the contract are met? Date of approval: _____				
14. Other requirements (i.e., list of unique requirements set forth in the contract)?				
<p><b>C. <u>APPROVAL, CONDITIONAL APPROVAL, OR DISAPPROVAL</u></b></p> <p>The contractor's property control system was reviewed by:</p> <p>_____  <i>(Insert property administrator's name/agency/office)</i>  on _____. The system is:  <i>(Insert date)</i></p> <p>1. _____ Approved.  2. _____ Conditionally approved.  (see attached discrepancies)  3. _____ Disapproved.  (see attached discrepancies)</p>				
<p><b>D. <u>SIGNATURE OF PROPERTY ADMINISTRATOR</u></b></p> <p>_____  <i>(Signature of property administrator)</i></p>				

## **CHAPTER 1246**

### **QUALITY ASSURANCE**

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1246.703                Criteria for use of warranties.

1246.704                Authority for use of warranties.

1246.708                Warranties of data.

1246.710                Contract clauses.

##### **SUBCHAPTER 1246.3--CONTRACT CLAUSES**

##### **1246.316 Responsibility for supplies.**

When the contracting officer deems it necessary, (FAR) 48 CFR 52.246-6, Responsibility for Supplies, may be used in solicitations and contracts when the contract amount is not expected to exceed the simplified acquisition threshold.

##### **SUBCHAPTER 1246.4--GOVERNMENT CONTRACT QUALITY ASSURANCE**

##### **1246.401 General.**

(f) The contracting officer should ensure that inspection under DOT contracts is documented in accordance with TAM 1246.6.

##### **SUBCHAPTER 1246.6--MATERIAL INSPECTION AND RECEIVING REPORTS**

Each OA is authorized to use Form DOT F 4220.42, Material Inspection and Receiving Report, and Form DOT F 4220.42a, Continuation Sheet, or a form substantially similar if authorized in accordance with OA procedures.

## **SUBCHAPTER 1246.7--WARRANTIES**

### **1246.702 General.**

The following areas should also be addressed by all OAs in relation to the use of warranties in DOT contracts:

(a) Planning is an essential step in obtaining an effective warranty and should begin early enough to address warranty requirements during the development of the item. Therefore, consideration of warranty provisions and their impact shall be included within the comprehensive acquisition planning process required by (FAR) 48 CFR Part 7, (TAR) 48 CFR Part 1207, and TAM Chapter 1207.

(b) The acquisition cost of a warranty may be included as part of an item's price when cost or pricing data will clearly define cost of the warranty to the Government, or may be set forth as a separate contract line item.

(c) Each OA shall establish a tracking and enforcement system, as appropriate, to identify items covered, to provide information to Government personnel about enforcing the warranty provisions, and to accumulate data relative to warranty costs.

### **1246.703 Criteria for use of warranties.**

Warranties should be obtained only when they are cost beneficial. To determine whether use of a warranty is cost beneficial, an analysis must be performed to compare the benefits to be derived from the warranty with its acquisition and administration costs. The analysis should examine the procurement's life cycle costs, both with and without a warranty. Where possible, a comparison should be made with the costs of obtaining and enforcing warranties for similar supplies or services. If a warranty is determined to be appropriate, the contract file shall be documented with the reason for inclusion of a warranty and identify the specific parts, subassemblies, systems or contract line item(s) on which a warranty should apply, and shall address why a warranty is appropriate under the criteria set forth in (FAR) 48 CFR 46.703.

### **1246.704 Authority for use of warranties.**

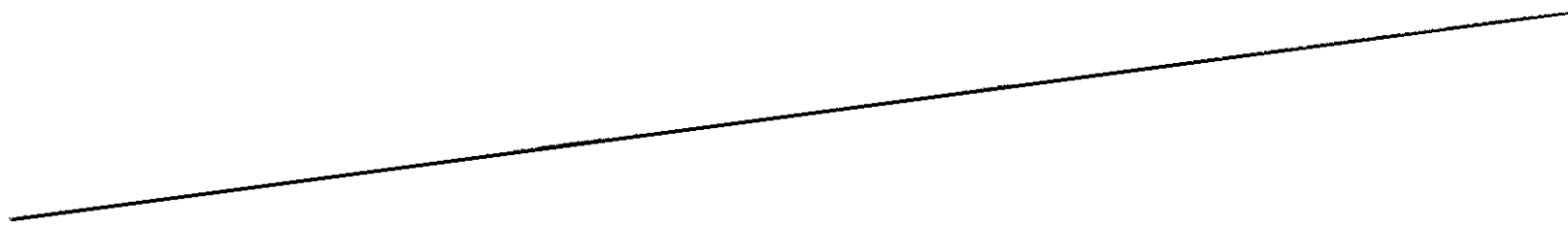
The COCO shall approve the use of a warranty clause in acquisitions where warranty exceeding the standard industry practices is required.

### **1246.708 Warranties of data.**

The contracting officer shall use the criteria under (FAR) 48 CFR 46.703 to determine whether data to be delivered under a contract should be warranted.

**1246.710 Contract clauses.**

(c)(1) The decision to include custom tailored warranties (i.e those that are over and above the contractor's standard trade practice) in a fixed priced construction contract shall be approved by the COCO.





## **CHAPTER 1247**

### **TRANSPORTATION**

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1247.506	Procedures.
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##### **SUBCHAPTER 1247.1--GENERAL**

###### **1247.103 Transportation Documentation and Audit Regulation (TDA).**

(b)(1) DOT Order 4000.2 series, Use of Commercial Forms and Procedures in Lieu of Government Bills of Lading, prescribes the use of commercial forms and procedures for small and domestic and international shipments on which transportation charges will not normally exceed \$100.00.

###### **1247.104 Government rate tenders under section 10721 of the Interstate Commerce Act.**

###### **1247.104-1 Government freight.**

(c) Negotiation of section 10721 rates by transportation officers does not require a contracting officer's warrant (see (FAR) 48 CFR 47.000(a)(2)). However, the binding of the Government through negotiated actions, other than through 49 CFR 10721, requires a contracting officer's warrant unless otherwise exempt by executive order, statute, or regulation.

#### **1247.105 Transportation assistance.**

- (a) The GSA points of contact for transportation assistance, by region are located in EARL.

#### **SUBCHAPTER 1247.2--CONTRACTS FOR TRANSPORTATION OR FOR TRANSPORTATION-RELATED SERVICES**

#### **1247.205 Availability of term contracts and basic ordering agreements for transportation or for transportation-related services.**

- (a) Contracts or basic ordering agreements awarded by DOT procuring offices for transportation or for transportation-related services greater than the small purchase limit requires approval one level above the contracting officer.

#### **SUBCHAPTER 1247.5--OCEAN TRANSPORTATION BY U.S.-FLAG VESSELS**

#### **1247.506 Procedures.**

- (a) MARAD has a role in enforcing the cargo preference statutes. MARAD can assist contractors in locating U.S.-flag carriers (see EARL) is empowered to determine when such services are not available; and can assist contracting officers in evaluating any contractor claims related to "excess costs" or differentials associated with the use of U.S.-flag vessels. Contracting officers desiring MARAD's assistance should contact: Director, Office of Ship Operations (MAR-610), 400 Seventh Street, S.W., Washington, DC, 20590.

- (c) The determination of fair and reasonable rates for charter cargoes not in published tariffs shall be obtained from the MARAD office in paragraph (a) above.

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1248.201	Clauses for supply or service contracts.
1248.202	Clause for construction contracts.

##### **SUBCHAPTER 1248.1--POLICIES AND PROCEDURES**

###### **1248.102 Policies.**

(a) The authority of the agency head to exempt contracts from including value engineering procedures and processes under (FAR) 48 CFR 48.102(a) is delegated to the HCA for individual (case-by-case) exemptions and to the SPE for class exemptions.

(b) M-60 is responsible for managing and monitoring value engineering (VE) efforts at DOT (see EARL for OMB Circular A-131).

###### **1248.103 Processing value engineering change proposals.**

Upon receipt of a value engineering change proposal (VECP), the contracting officer shall promptly forward it to the technical initiator responsible for the contract, indicating:

(a) The date the VECP was received;

(b) The date by which the contractor must be informed of the Government's acceptance or rejection of the VECP, unless additional time is required for evaluation;

(c) The date by which the contracting officer must know of the technical officer's decision in order to timely accept or reject the VECP;

(d) The need for information required to inform the contractor if the VECP is to be rejected or if additional time is needed for evaluating the VECP;

(e) The potential for awarding concurrent, future, or collateral savings to the contractor, if the VECF is accepted;

(f) That if the VECF is accepted, precise information will be needed with regard to the type of savings, and Government costs, that can be expected from its acceptance;

(g) The need for a procurement request (Form DOT F 4200.1) setting forth the specification changes to be used in a contract modification accepting the VECF in whole or in part; and

(h) The need for additional funds, if acceptance of the VECF results in negative instant contract savings.

#### **1248.104 Sharing arrangements.**

##### **1248.104-2 Sharing collateral savings.**

The authority of the HCA to determine that the cost of calculating and tracking collateral savings will exceed the benefits to be derived under (FAR) 48 CFR 48.104-2(a) is delegated to the COCO.

### **SUBCHAPTER 1248.2--CONTRACT CLAUSES**

#### **1248.201 Clauses for supply or service contracts.**

##### **(a) *General.***

(6) The authority of the agency head to exempt a contract or class of contracts from the requirements of FAR Part 48 under (FAR) 48 CFR 48.201(a)(6) is delegated to the HCA for an individual contract action and to the SPE for a class of contract actions.

(e) The authority of the HCA to determine that the cost of calculating and tracking collateral savings will exceed the benefits to be derived under (FAR) 48 CFR 48.201(e) is delegated to the COCO.

#### **1248.202 Clause for construction contracts.**

The authority of the HCA to determine that the cost of calculating and tracking collateral savings will exceed the benefits to be derived under (FAR) 48 CFR 48.202 is delegated to the COCO.

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1249.111                      Review of proposed settlements.

**SUBCHAPTER 1249.1--GENERAL PRINCIPLES**

**1249.111 Review of proposed settlements.**

All proposed settlement agreements shall be coordinated with legal counsel.



## **CHAPTER 1250**

### **EXTRAORDINARY CONTRACTUAL ACTIONS**

#### **TABLE OF CONTENTS**

#### **SUBCHAPTER 1250.2--DELEGATION OF AND LIMITATIONS ON EXERCISE OF AUTHORITY**

1250.201                      Delegation of authority.

#### **SUBCHAPTER 1250.4--RESIDUAL POWERS**

1250.401                      Standards for use.

#### **SUBCHAPTER 1250.2--DELEGATION OF AND LIMITATIONS ON EXERCISE OF AUTHORITY**

##### **1250.201 Delegation of authority.**

(b) The authority of the head of the agency to approve requests to obligate the Government in excess of \$50,000 is delegated to the DOT Board of Contract Appeals (BCA), S-20.

(d) The authority of the Secretary to indemnify against unusually hazardous or nuclear risks, including extension of such indemnification to subcontracts, is not delegable regardless of dollar amount.

#### **SUBCHAPTER 1250.4--RESIDUAL POWERS**

##### **1250.401 Standards for use.**

Generally, it is DOT policy not to authorize indemnification to contractors or subcontractors against unusually hazardous or nuclear risks, pursuant to Pub. L. 85-804 (National Defense Contract Authorization Act), as amended, and (FAR) 48 CFR Subpart 50.4. Contracting officers shall not include in solicitations or contracts the clause at (FAR) 48 CFR 52.250-1, Indemnification Under Pub. L. 85-804, unless specifically authorized by the Secretary. OAs shall direct all requests for indemnification through the OA Office of the Chief Counsel for appropriate coordination with the DOT General Counsel (C-10) before transmittal to the Secretary.





## **CHAPTER 1251**

### **USE OF GOVERNMENT SOURCES BY CONTRACTORS**

#### **TABLE OF CONTENTS**

#### **SUBCHAPTER 1251.2--CONTRACTOR USE OF INTERAGENCY FLEET MANAGEMENT SYSTEM (IFMS) VEHICLES**

1251.201                      Policy.

#### **SUBCHAPTER 1251.2--CONTRACTOR USE OF INTERAGENCY FLEET MANAGEMENT SYSTEM (IFMS) VEHICLES**

##### **1251.201 Policy.**

(c) The Contracting Officer is delegated the responsibility to request the approval from the GSA Administrator for a Government contractor to obtain interagency fleet management system vehicles.



**TRANSPORTATION ACQUISITION MANUAL**

**CHAPTER 1252**

**SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**(RESERVED)**





1253.303-ITA-999 Request for Special Priorities Assistance.  
1253.303-DOL-1671 Report of Proposed Federal Construction.  
1253.303-GSA-457 FSS Publications Mailing List Application.

### **1253.105 Computer generation.**

Operating administrations may computer-generate the forms prescribed in the TAR and this manual. Unless otherwise permitted in this chapter, computer-generated forms shall not change the name, content, or sequence of the data elements and shall carry the assigned number (e.g., Form DOT F 4220.12) and edition date.

## **SUBCHAPTER 1253.2-- PRESCRIPTION OF FORMS**

### **1253.203-70 Source selection information.**

The following form is prescribed for use in notifying recipients that the document contains source selection information, as specified in TAM 1203.104-5(b)(iii):

Form DOT F 4220.35, Cover Page Source Selection Information. (See TAM 1203.104-5(b)(iii).) Form DOT F 4220.35 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

### **1253.203-71 Proprietary information.**

The following form is prescribed for use in notifying recipients that the information or portions thereof is proprietary information related to the conduct of a Federal agency procurement, as specified in TAM 1203.104-5(b)(ii):

Form DOT F 4220.36, Cover Page Proprietary Information. (See TAM 1203.104-5(b)(ii).) Form DOT F 4220.36 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

### **1253.204-70 DOT Contract Information System (CIS) data input.**

The following form is prescribed for use when inputting information to the Federal Procurement Data System via the CIS, as specified in TAM 1204.6:

Form DOT F 4220.11, DOT CIS Data Input Form. (See TAM 1204.6.) Form DOT F 4220.11 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

### **1253.205-70 Contract award notification.**

The following form is prescribed for use for public and Congressional notification of contract awards, as specified in TAM 1205.303(a)(1):

Form DOT F 4220.41, Contract Award Notification. (See TAM 1205.303-(a)(1).) Form DOT F 4220.41 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

### **1253.209-70 Responsibility determination.**

The following form is prescribed for use to make the determination and document that a contractor is/is not responsible, as specified in TAM 1209.105-2:

Form DOT F 4220.1, Responsibility Determination. (See TAM 1209.105-2.) Form DOT F 4220.1 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

### **1253.211-70 Special priorities assistance.**

The following form is prescribed for use when requesting special priorities assistance, as specified in TAM 1211.603(g)(3):

Form ITA-999, Request for Special Priorities Assistance. (See TAM 1211.603(g)(3).) Form ITA-999 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

### **1253.213-70 Simplified acquisitions.**

The following form is prescribed for use on simplified acquisition procedure actions, as specified in TAM 1213.101:

Form DOT F 4230.1, Simplified Acquisition Summary. (See TAM 1213.101.) Form DOT F 4230.1 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

### **1253.215-70 Contracting by negotiation.**

The following forms are prescribed for use in contracting by negotiation:

(a) Form DOT F 4220.32, Weighted Guidelines Profit/Fee Objective. Form DOT F 4220.32 shall be used in developing the profit or fee objectives for conducting negotiations. It is authorized for local reproduction.

(b) Form DOT F 4220.34, Contract Facilities Capital and Cost of Money. Form DOT F 4220.34 shall be used to complete the Form DOT F 4220.32 regarding the amount for capital employed and cost of money. It is authorized for local reproduction.

#### **1253.219-70 DOT Procurement Forecast Form.**

The following form is prescribed for use when preparing procurement forecasts.

Form DOT F 4220.12, DOT Procurement Forecast Form. (See TAM 1219.202-270.) Form DOT F 4220.12 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

#### **1253.222-70 Summary of underpayments.**

The following form is prescribed for use to support the total number of employees cited on the SF 1446, Labor Standards Investigation Summary Sheet.

Form DOT F 4220.8, Summary of Underpayments. (See TAM 1222.406-8.) Form DOT F 4220.8 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

#### **1253.232-70 Contract financing.**

The following forms are prescribed for use when providing funds to procure Departmental goods and services, as specified in TAM 1232.702-70, etal.:

Form DOT F 4200.1, Procurement Request-Process Rapidly, and Form DOT F 4200.2, Procurement Request Continuation Sheet. (See TAM 1232.702-70, etal.). Forms DOT F 4200.1 and DOT F 4200.2 are authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

#### **1253.236-70 Construction and architect-engineer contracts.**

The following forms are prescribed for use when reporting proposed construction projects to DOL and when holding preconstruction conferences, as specified in TAM 1236.213-70(b) and TAM 1236.212(b), respectively:

(a) Form DOL-1671, Report of Proposed Federal Construction. (See TAM 1236.213-70(b).) Form DOL-1671 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.



(b) Form DOT F 4220.3, Preconstruction Conference Agenda and Checklist. (See TAM 1236.212(b).) Form DOT F 4220.3 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

#### **1253.238-70 FSS Publications Mailing List Application.**

The following form is prescribed for use to initiate automatic receipt of contractor publications for multiple award schedules, as specified in TAM 1238.101(e):

GSA Form 457, FSS Publications Mailing List Application. (See TAM 1238.101(e).) GSA Form 457 is authorized for local reproduction and a copy is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

#### **1253.246-70 Material Inspection and Receiving Report.**

The following forms are prescribed for the use, preparation, and distribution of material inspection and receiving reports and commercial shipping document/packing lists to evidence Government inspection, as specified in TAM 1246.6:

Form DOT F 4220.42, Material Inspection and Receiving Report, and Form DOT F 4220.42a, Material Inspection and Receiving Report -(Continuation Sheet). (See TAM 1246.6.) Form DOT F 4220.42 and Form DOT F 4220.42a are authorized for local reproduction and a copy of each is furnished for this purpose in Chapter 1253 of the loose-leaf edition of the TAM.

### **SUBCHAPTER 1253.3--ILLUSTRATION OF FORMS**

#### **1253.303 Agency forms.**

This subchapter contains illustrations of DOT-specific forms used in acquisitions.



**NOTICE:**

Please complete this form to notify the Office of Acquisition and Grant Management (M-60) of errors such as misspelled words, omitted material, or errors in format. DO NOT use this form to submit suggested changes to the TAM (see TAM 1201.301-70). This form should be mailed to:

Office of Acquisition and Grant Management  
Acquisition Management Division (M-61)  
400 7th Street, SW  
Washington, DC 20590

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**(TAM 1998 EDITION)**

An error has been noted as follows:

TAM Chapter, Subchapter, or Section: \_\_\_\_\_

Page Number: \_\_\_\_\_

Nature of errors: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Correction from:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_



22 February 2000

ERRATA to COMDTINST 16750.8A

Federal/State Relations-Recreational Boating Safety

1. The discrepancy listed below to CI 16750.8A dated September 14, 1999 of the Federal/State Relations-Recreational Boating Safety, has been reported to G-SII-3.

DISCREPANCY	<u>Page</u>	<u>Problem</u>
	Encl (3): page 2	missing

2. The instruction is being reprinted. Discard all copies received previously. Please report any other discrepancies to COMDT (G-SII-3).

Encl: (1) reprinted copy of Instruction

